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Turks and Caicos Islands

Working paper prepared by the Secretariat

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I. General

1. The Territory of the Turks and Caicos Islands[1] comprises 40 islands and cays, which lie 145 kilometres north of Haiti and the Dominican Republic and 925 kilometres south-east of Miami, United States of America. Of these islands, only six are permanently inhabited: Grand Turk, where the capital, Cockburn Town, is located; Salt Cay; South Caicos; Middle Caicos; North Caicos; and Providenciales. The total population of the Territory is estimated at 25,000,[2] including some 5,000 to 6,000 immigrants from Haiti and the Dominican Republic. Approximately 11,000 are "belongers", local citizens of the Turks and Caicos Islands who have the right to vote in general elections. Around 17,000 people live on Providenciales, which is the business and tourism centre of the Territory. The administrative capital, Grand Turk, has a population of about 4,000. Most of the population are of African descent, the rest being of mixed or European origin. English is the main language, with some Creole spoken by Haitian immigrants. The main religion is Christianity.

2. The Turks and Caicos Islands were discovered by the Spanish in 1512. In 1678, Bermudans established a salt industry. The Islands were settled by royalist sympathizers from the United States after the War of Independence; they established cotton plantations, employing slaves. Between 1833 and 1843, slavery was abolished and the plantation owners left the Islands, leaving their former slaves in possession. From 1874 to 1959, the Turks and Caicos Islands were governed by Britain as a dependency of Jamaica. The Islands became a separate colony of the United Kingdom of Great Britain and Northern Ireland in 1962, under the control of the Bahamas, but with Bahamian independence in 1973, the Turks and Caicos were placed under a British Governor stationed on Grand Turk.

II. Constitutional, legal and political issues

3. The Turks and Caicos Islands is an Overseas Territory of the United Kingdom with a ministerial system of government. Under the provisions of the 1976 Constitution, amended in 1988, executive power is vested in the Governor, appointed by the Queen. The Constitution provides for an Executive Council and a Legislative Council. The Governor is responsible for foreign affairs, internal security, defence, the appointment of public officers, offshore finance and certain other matters, but is otherwise required to act on the advice of the Executive Council. The Executive Council consists of the Governor, six elected members of the Legislative Council appointed by the Governor (the Chief Minister and his five Ministers) and two ex officio members (the Chief Secretary and the Attorney General). The Legislative Council consists of 19 members: 13 representatives elected by popular vote, 3 appointed by the Governor (one of these on the advice of the Chief Minister and one on the advice of the Leader of the Opposition), the two ex officio members of the Executive Council and the Governor. The Speaker is appointed on the advice of the governing party.

4. The current Governor is James Poston, who has been in office since 2002. In November 2004, the United Kingdom Government approved the appointment of Richard Tauwhare as Governor of the Territory, to take office in mid-2005.[3]

5. There are two main political parties in the Territory, the People's Democratic Movement (PDM) and the Progressive National Party (PNP), formed in 1975 and 1980, respectively.

6. In the general election held on 24 April 2003, PDM, the then governing party, won 50.2 per cent of the vote and the opposition PNP 49.8 per cent. In August 2003, by-elections were held in two constituencies following a successful petition to the Supreme Court by PNP alleging maladministration in the registration of electors in the general election. The new elections were supervised by independent observers from the United Kingdom. As a result of the by-election, PNP gained an 8 to 5 majority of the elected members of the Legislative Council, and Michael Misick, the leader of the party since 2002, was sworn in as Chief Minister on 13 August 2003.

7. The legal system, based on English Common Law, includes a Supreme Court and a Court of Appeal, and has provision for appeal to the Privy Council in London.

8. As reported previously (see A/AC.109/2004/16, para. 9), the British Overseas Territories Act 2002 provided for the right to British citizenship of the citizens of all United Kingdom Territories, including the Turks and Caicos Islands.

9. In September 2002, the Constitutional Review Body presented the constitutional modernization review report which, inter alia, reflected public concerns and made recommendations related to limiting the powers of the Governor and creating a permanent Deputy Governor position, as well as others regarding the executive, legislative and judicial organs of the Territory (see A/AC.109/2003/8, paras. 7-11 and A/AC.109/2004/16, paras. 10-17).

10. During the discussion of the report by the Legislative Council in October 2003, the Chief Minister suggested a bipartisan approach, with a view to going to the constitutional talks with the British Government with a common position. In July 2004, a delegation of senior officials from the British Government held constitutional talks with the Chief Minister and the Cabinet in the Turks and Caicos Islands. The delegation held separate talks with the Opposition PDM, following the latter's decision not to take part in joint talks with the governing PNP. The Chief Minister had a further meeting in London in September 2004 with the British Foreign Office minister responsible for the Overseas Territories. The talks on constitutional reform continued in December 2004.

11. According to information provided by the administering Power, the talks have focused on the issues raised in the constitutional review, including the relationship between the United Kingdom Government and the elected Government of the Territory. The British Government has made it clear that it would give careful consideration to any proposals put to it within the framework of promoting the maximum degree of local self-government. However, the United Kingdom remains steadfast that as long as the Turks and Caicos Islands choose to maintain its link with Britain, the British Government must retain sufficient reserve powers to ensure that it is able to fulfil its international obligations and protect itself against contingent liabilities.[4]

III. Economic conditions

A. General

12. Since the 1980s, the main sectors of the economy have been upmarket tourism and international financial services. Foreign investors, mainly from Canada, the United Kingdom and the United States, play a significant role in the Islands'

economic life. The main areas of private investment are tourism, property development and real estate, international finance and fishing. The main focus of investment activity is the island of Providenciales.

13. The average gross domestic product has grown by over 8 per cent per year during the past decade, rising from $69 million in 1990 to $216 million in 2002 (the United States dollar is the official currency of the Turks and Caicos Islands). According to the Department of Planning and Statistics, in 2003 the gross domestic product rose to an estimated $308 million, representing a 15 per cent increase over 2002. The projected growth for 2004 was approximately 13 per cent.[5] Although unemployment never fell below 12 per cent and the growth was unevenly distributed among the constituent islands, the economic well-being of the population improved considerably.

14. The Turks and Caicos Islands were struck by Hurricane Frances in early September 2004. Other than power cuts and temporary telecommunication losses, only minor damage to a small number of houses was reported.[6]

B. Budget

15. The budget is projected on a triennial basis, with annual revisions. The fiscal year begins in March.

16. In the 2003/04 period recurrent revenue grew by 25 per cent, to $104 million, surpassing the estimate of $89 million. This increase was due mainly to the collection of stamp duty on land transactions. Recurrent expenditure for 2003/04 was $93.5 million ($6.5 million higher than the budgeted amount), representing a 19 per cent increase over 2002/03. The increase in expenditure was due mainly to higher joint venture costs and increased costs in the Civil Aviation Department, medical referrals and drugs, rental and maintenance of buildings, illegal immigrants' repatriation costs and scholarship costs. Despite the increase in recurrent expenditure, there was a recurrent surplus of almost $11 million.

17. According to the 2004/05 budget address presented by the Minister of Finance in May 2004, the Government estimated recurrent revenue for the 2004/05 fiscal year at $110.8 million and recurrent expenditure at $107.9 million, with a resulting surplus of about $3 million. Development expenditure for this period is estimated at $72 million, of which $17.4 million will be locally funded, $38 million will be funded by borrowing and the remainder through capital grants and private finance. In order to finance infrastructure throughout the Territory, the Government plans to establish an infrastructure development fund through a $0.25 increase in fuel tax. The Government also announced its intention to amend the provisions of the Hotel and Restaurant Ordinance relating to accommodation tax, so that owners of villas and private homes will also become subject to that tax.

18. In the 2004/05 period, the Government expects the main sources of revenue to be taxes (accounting for 39 per cent of total revenue), duties (35 per cent), fees and charges (14 per cent), other charges (6 per cent), licences (5 per cent) and rents (1 per cent).

19. Development expenditure over the 2004/05 period will be directed towards the following: a new launch for the Royal Turks and Caicos Islands Police Force; improvements at the H. J. Robinson High School; construction of a new government

office block; protection and security of the Territory's borders; formulation of a national development plan and a medium-term social and economic strategy; addressing overcrowding at schools on Providenciales; expanding the network of roads on North Caicos; and the establishment of a proper marketplace on Providenciales.[7]

20. According to the administering Power, any deficit in the Territory's budget in recent years has been covered by funding from the United Kingdom, the European Union and multilateral agencies. The Government levies no taxes on corporate or personal income, capital gains or inheritance. The largest component of current revenue is customs duty, while company registration fees and tourism levies have produced an increased share in recent years. Borrowing guidelines are agreed to from time to time with the United Kingdom Government, the most recent agreement being in 2003.

21. In late 2004, the Government announced that it had secured permission from the United Kingdom to borrow up to $28 million to undertake infrastructure projects.[8]

C. Financial services

22. Overall constitutional responsibility for the Turks and Caicos Islands' offshore finance sector rests with the Governor. At the practical level, responsibility for regulation and supervision rests with the newly created Financial Services Commission, a statutory body separate from the Government with a governing board appointed by the Governor. The financial services regulatory structure has undergone major modifications since 2000 and legislation is in place covering the banking, insurance and securities businesses, corporate and trust service providers, anti-money-laundering measures, counter-terrorism financing and international cooperation. Among the attractions that the Turks and Caicos Islands presents to offshore companies are the use of the United States dollar as the official currency, the absence of direct taxation, a growing financial infrastructure, fast and straightforward company registration procedures and a flexible regulatory regime.

23. A number of major international accounting and financial service companies operate out of the Turks and Caicos Islands. Although considered less important to the economy than it was a few years ago, the financial services sector nevertheless contributes around 10 to 12 per cent of the gross domestic product and is the second largest source of external revenue after tourism and the third largest employer in the Territory. The captive insurance industry continues to grow steadily, with a net increase of 16 captives in 2003 bringing the Territory's total to 159 insurers covering about 16,500 companies domiciled in the Turks and Caicos Islands.[9]

24. As earlier reported (A/AC.109/2004/16, para. 26), discussions within the European Union since 1998 on cross-border taxation of savings accounts held by citizens of European Union countries led, in 2003, to agreement on the European Union savings tax directive. The directive is scheduled to be implemented by July 2005 and will apply to all European Union members and their territories, including the Turks and Caicos Islands. The directive requires that details of all interest paid in another country to a European Union resident be passed to the relevant European Union home-State taxation authority, or that a withholding tax be levied and passed on to the relevant European Union authority. In March 2004, the Turks and Caicos

Government agreed to legislate the implementation of the directive and to levy a withholding tax, rather than providing details of interest income earned by European Union residents to their home country's tax authority.[10]

D. Agriculture, fisheries, construction and manufacturing

25. Agricultural production is small and concentrated in North Caicos. The sector has begun to grow recently, with more produce available for sale on Providenciales and the establishment of a new farmers' cooperative. About 20 per cent of the working population is involved in agriculture and fishing. The production of high-value, value-added and specialty export products has an important potential for growth and investments in the Territory.

26. Efforts are being made to develop an agricultural policy to assist local farmers and promote import substitution for some food items currently imported.

27. According to the 2003 annual report of the Caribbean Development Bank, released in 2004, the fisheries sector registered mixed performance during 2003, with a decline in lobster production and a rise in conch production as compared with the previous year. Lobster production continued to be adversely affected by illegal fishing during the closed season and by poaching from foreign vessels. The major challenge to the fisheries sector stems from the ineffective monitoring and control of illegal fishing in the absence of adequate patrols. The Ministry of Natural Resources of the Territory is currently working on a new fisheries management policy to address these concerns. The sector's export earnings were $2.5 million for the period January to September 2003 and, for the calendar year 2003, were expected to be much higher than the $2.6 million export earnings for 2002.[11]

28. Apart from the production of handicrafts for the tourism trade, the only manufacturing activity is the semi-processing of imported rice for re-export to the European Union, benefiting from duty preferences under the Lomé Convention. Operations were begun in 1994 but have been reduced since early 1997, when the European Union imposed a restrictive quota on rice imports from African, Caribbean and Pacific countries via the overseas countries and territories regime.[12]

29. Several international construction companies are based in the Turks and Caicos Islands. According to information provided by the administering Power, most major projects are subject to international competitive bidding. Sand and rock are quarried locally for use in construction projects, most significantly for hotels and commercial buildings.[12] The construction and real estate markets continue to grow, focusing on the construction of upmarket hotels and resorts, condominium and time-share accommodations, domestic housing and beach properties.[13]

E. Tourism

30. The Turks and Caicos Islands tourism sector continued to record one of the fastest growth rates in the entire Caribbean. According to the Tourist Board, tourism picked up in 2003 and continued to grow throughout 2004. Total air passenger arrivals numbered around 154,000 in 2003. Provisional estimates for 2004 suggested a further increase. Cruise ship arrivals also went up to over 21,000 in 2003.

31. According to the Turks and Caicos Hotel and Tourism Association, tourism has grown by approximately 90 per cent over the last 10 years. In order to satisfy the heightened demand, there has been an accompanying boom in development with more than 20 resorts opening during that period. The construction of new hotels in the Territory continued during the period under review, including the start of construction of an $85 million boutique resort comprising 72 luxury suites on Grace Bay beach, a $70 million Ritz-Carlton development on West Caicos, a 100-room extension to the existing Beaches Turks and Caicos resort and a $45 million renovation of the Grace Bay Club.[14]

32. During 2004, the Turks and Caicos also recorded an increase in passenger air service capacity of close to 25 per cent, translating to an additional 1,000 seats per week.[15]

33. As reported previously (see A/AC.109/2004/16, para. 34), in 2003, the Chief Minister of the Territory signed a development agreement with Holland America/Carnival to construct a cruise ship port in Grand Turk. In December 2004, work commenced on the cruise terminal. The port, which is scheduled to open in late 2005, is expected to contribute to economic growth and the revitalization of the Territory's capital. Part of the investment by Carnival includes $1 million for loans to encourage small business creation and $3 million to develop infrastructure and tourism products on Grand Turk, which should help land-based tourism.[16]

F. Infrastructure

34. Transport and communication facilities are of a good standard, reflecting the Territory's relatively high income and the developing offshore financial sector. There are airports capable of handling international flights on Providenciales, Grand Turk, North Caicos and South Caicos, and paved airstrips on Middle Caicos and Salt Cay. From Providenciales, American Airlines, US Airways and Delta operate flights to the United States and British Airways operates flights to the United Kingdom. In season, there are charter flights from several North American cities, including Boston, Chicago, Detroit, New York, Philadelphia and Toronto. Inter-island air services are provided by SkyKing, Turks and Caicos Airways and numerous local charters. Flights are also available to the Bahamas, Haiti, the Dominican Republic, Puerto Rico, Cuba and Jamaica.

35. In 2004, a new terminal building opened at Grand Turk International Airport. The construction comprises a new state-of-the-art terminal, car parks, landscaping, access roads, extensions to the runway, resurfacing of the existing runway and upgraded airport landing lights.

36. Grand Turk, Providenciales, South Caicos and Salt Cay have ports. The road network covers about 130 kilometres, with paved roads on Grand Turk, Providenciales and the Caicos Islands.

37. As mentioned in paragraph 33 above, a new port is being built in Grand Turk in cooperation with Holland America. It will provide a cruise dock extending 512 metres from the shoreline and capable of accommodating two cruise ships at a time.[16]

38. Cable and Wireless, a British telecommunication company, provides domestic and international telephone services in the Territory. In July 2004, the

Telecommunications Bill 2004 was passed, breaking the 105-year monopoly of Cable and Wireless and introducing gradual liberalization of the sector to be completed by the end of 2005. The new law also creates a Telecommunications Commission to regulate the industry.[17] There are 12 cable television channels on Grand Turk and 32 on Providenciales, and seven radio stations. There are no daily newspapers. The *Free Press* and the *Turks and Caicos News* are published weekly, and the *Times of the Islands*, a magazine aimed at business and tourism, is issued quarterly. All electricity services are operated by private companies using diesel generators, and conform to United States standards of supply and reliability.[12]

IV. Social conditions

A. Immigration and labour

39. The expansion in the tourism and offshore finance sectors has resulted in favourable economic growth, but activities in these areas are concentrated almost totally on one island, Providenciales. Thus, economic opportunities are not equally distributed among the islands. Unemployment varies between 14 and 20 per cent on the other islands, while Providenciales boasts almost full employment. Inter-island migration is common, particularly to Grand Turk where the capital is located. A number of social problems, such as overcrowding, housing shortages and an increase in the number of female-headed households, have resulted from this skewed pattern of development.

40. As earlier reported (see A/AC.109/2004/16, paras. 41-44), in March 2004, the Immigration Review Commission presented its report containing proposals for major changes in the immigration laws that would bring the immigration regime of the Turks and Caicos Islands in line with that of other countries in the region. The report covered such issues as "belonger" status (local citizenship), permanent and long-term residency, home ownership and investor permits, as well as the impact of the substantial increase in the resident population on health, education and other social services. The report noted the importance of retaining people with specialized skills and expertise for the proper development of the Territory.

41. In November 2004, the Employment Ordinance 2004 was passed. The new ordinance establishes the Labour Tribunal as a judicial forum for employment disputes. The tribunal has the competency to deal with complaints concerning all rights conferred on employers and employees by the ordinance. The ordinance also introduces a requirement for contracts of employment.[18]

B. Education

42. Education in the Territory is free and compulsory for children between 5 and 16 years of age. There are 14 Government-run primary schools and 4 Government-run secondary schools. The adult literacy rate is 98 per cent. The pupil-teacher ratio averages 25:1.

43. For the 2004/05 fiscal year, 18 per cent of projected expenditure was earmarked for the Department of Education.

44. In September 2004, the Government unveiled the report of the Education Policy Advisory Commission, which makes recommendations on a number of issues including human resources, curriculum and material resources. In the report, which examines the state of education in the Territory, the Minister highlighted notable improvement in the results of students in the major standard examinations. The Government also announced a review of the Territory's scholarship programme in 2004.[19]

C. Health

45. Basic health care is available on the islands through a network of primary health-care clinics and one hospital, located on Grand Turk. The Government has sought to address infrastructural needs, especially on the island of Providenciales, which has a high population growth rate.[20]

46. In October 2004, the Minister for Health indicated that the Government was in the process of having two new hospitals built in the Territory. At the same time, the Minister noted that it was a long-term goal of the Government to establish a structured health insurance policy in the Turks and Caicos Islands.[21]

47. According to the World Health Organization, the illegal migrant population presents a major challenge for the Territory. Migrants often live under poor conditions, and there is a recorded increase in the incidence of communicable diseases, especially tuberculosis, among them. This situation also places an additional strain on the Territory's health system.

48. For the 2004/05 fiscal year, 17 per cent of the projected expenditure was allocated for the Department of Health. In October 2004, the Minister of Finance, Health and National Insurance indicated that during the previous period, the expenditure on both health and education had exceeded their allotted budget.[21]

49. During the period under review, the Government addressed the issue of the cost of medical referrals. Due to the lack of technical capability in the Territory for medical assistance, medical referrals from the Turks and Caicos Islands to medical institutions in the United States are high. In the past medical referrals were part of the Territory's health-care infrastructure and were publicly subsidized. However, in 2004, the Government developed a new medical referral policy which introduced a means testing system and limited the amount the Government would pay per referral. In addition, the Government developed a comprehensive referral agreement with Cleveland Clinic in Fort Lauderdale in the United States with a view to containing the Territory's overseas medical referral costs. The agreement also provides for technical assistance to the Territory in planning health-care services and sectoral infrastructure development for the medium term.[7]

D. Crime

50. While the Territory has the lowest crime rate in the region, it is confronted with offences such as drug trafficking, illegal immigration, mostly from Haiti, and illegal fishing (see A/AC.109/2003/8, paras. 49-51 and A/AC.109/2004/16, paras. 47-49).

51. Illegal immigration from Haiti is high on the agenda of the law enforcement organs. In 2003 an average of 400 Haitian boat people arrived in the Territory each month, many of whom were made to believe by smugglers that they would be taken to the United States. The Government of the Turks and Caicos Islands has discussed the situation with the Government of Haiti.

52. As previously reported (see A/AC.109/2004/16, para. 49), the territorial Government has raised the problems of illegal immigration and illegal fishing with United Kingdom officials, as the Territory does not have enough vessels to patrol its territorial waters.

V. Relations with international organizations and entities

53. The Turks and Caicos Islands was admitted as an associate member of the Caribbean Community (CARICOM) in 1991. The Territory is also a member of the Caribbean Development Bank and Interpol.

54. During the reporting period, there was discord between the two main political parties over the issue of upgrading the Territory's membership in CARICOM. According to the Government, one of the advantages of becoming a full member of CARICOM is that the Turks and Caicos Islands would have more influence on issues dealt with in that forum, including Haiti and, in particular, Haitian refugees, an issue which the Chief Minister stated was "the single largest threat to the Turks and Caicos Islands and its economy". At the same time, the Chief Minister has confirmed that the Territory will only pursue full membership in CARICOM on condition that it will abstain on issues relating to freedom of movement within the Community, the Caribbean Single Market and Economy, the Caribbean Court of Justice and other issues that have direct bearing on external relations, defence and security.[22]

55. In April 2004, CARICOM signed an agreement with the United Nations Development Programme (UNDP) that will allow the Turks and Caicos Islands to benefit from the $22 million dollar Caribbean Renewable Energy Development Programme and a project funded by UNDP and Japan for the establishment of a CARICOM videoconferencing facility. The Renewable Energy Development Programme is intended to lower emissions of carbon dioxide in the region and to reduce dependency on petroleum products, which currently account for 93 per cent of commercial energy consumption.[23]

56. In December 2004, the President of the Caribbean Development Bank visited the Turks and Caicos Islands in an effort to gain a deeper understanding of the Government's development plans for the Territory. He visited a number of local businesses that had benefited from the Bank's loans which, over the years, had amounted to more than $7 million.[24]

57. As part of its membership of the Association of Overseas Countries and Territories of the European Union, the Turks and Caicos Islands hosted the Association's first biennial small islands micro-economies conference in February 2005. The aim of the conference was to provide a forum for the Association's member countries to discuss and share experiences concerning issues affecting their development. The issues examined at the conference included: health care,

education, utilities, administration and justice, globalization and international trade rules, transport and disaster preparedness.[25]

VI. Future status of the Territory

A. Position of the territorial Government

58. As described in paragraphs 10 and 11 above, constitutional talks between the Government of the Turks and Caicos Islands and officials from the United Kingdom took place throughout 2004. According to the Chief Minister, the talks were fruitful and allowed the Government of the Territory to make clear its position on constitutional advancement towards full self-government. The talks also allowed the officials from the United Kingdom to make clear the extent of constitutional change that their Government would be willing to accept without full independence of the Territory.[26]

59. Speaking at a press conference following the talks in July 2004, the Chief Minister confirmed that his party (PNP) intended to take the Territory to full internal self-government while pursuing its ultimate goal of "full sovereignty for the people". The Chief Minister stated: "We came to power almost a year ago on a mandate of change and we consider that full internal self-governance is a part of that change. ... We made a case very strongly that we have a mandate for full internal self-government and we hope to continue to push that position." According to the Chief Minister, there were a number of issues upon which the territorial Government and the United Kingdom were initially unable to agree.[27] These issues were taken up with British ministers when the Chief Minister travelled to London to attend the Overseas Territories Consultative Council in September 2004.

60. A delegation from the Turks and Caicos Islands participated in the Caribbean and Bermuda Overseas Territories Chief Ministers Conference, held in George Town, Cayman Islands in August 2004. During the meeting the Chief Ministers reached agreement on a common position on many issues to put to the United Kingdom at the meeting of the Overseas Territories Consultative Council.[28]

61. During the reporting period, there were numerous reports in the local and Canadian press about the proposals tabled in the Parliament of Canada to incorporate the Turks and Caicos Islands as an eleventh province of Canada. At the beginning of 2004, a member of the Canadian Parliament, who initiated the proposal, met with the Governor of the Territory and the Chief Minister to discuss the relationship between the two entities. According to Canadian sources, in view of Canada's business and trade interests in the Turks and Caicos Islands, coupled with the general preference of the population of the Territory to remain within the Commonwealth, Canada had become the preferred country of association.[29]

B. Position of the administering Power

62. In his statement to the Fourth Committee of the General Assembly, on 5 October 2004 (see A/C.4/59/SR.3), the representative of the United Kingdom said that his Government again welcomed the opportunity, as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it last met.

63. He stated that the partnership between the United Kingdom and its Overseas Territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2004. The Council, which had been chaired by Bill Rammell, Member of Parliament, Minister for the Overseas Territories, was the forum for dialogue between democratically elected Chief Ministers and their equivalents from the Territories with United Kingdom Government ministers. The meeting in 2004 had again given an opportunity for discussion on the relationship between the United Kingdom and the Territories, on constitutional modernization issues, on sustainable development, including good governance and environmental matters, and on other issues relating to the United Kingdom's international obligations.

64. The representative stated that Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, over the past year. These had enabled him to meet a range of people in the two Territories and to get a better, first-hand knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own Territories.

65. The United Kingdom, he pointed out, welcomed the progress that was being made in the constitutional review process. Useful and productive discussions had been held over the past year by United Kingdom officials with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena a draft constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

66. Conscious of the limited resources in a number of the Territories, the United Kingdom Government continued to support projects in various fields to raise local capacity and to promote sustainable development and good governance. The projects ranged from economic diversification, to the reform of legislation governing child and family welfare, to a study on the alternatives to custodial sentencing.

67. In 2003, the representative of the United Kingdom had said that additional funds were to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the environment charters for the Overseas Territories, signed in 2001. This joint Overseas Territories environment programme was funding 23 new projects in 2004-2005, of which three were multi-Territory initiatives. These included habitat restoration, surveys of natural living resources, and capacity-building for both Government and civil society institutions.

68. Regrettably, the Caribbean had again suffered badly from hurricanes. In the context of the Territories, he mentioned the devastation caused by Hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help, and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered quite extensive damage in part of the Territory a few weeks earlier.

69. The United Kingdom representative mentioned that, in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official with responsibility for liaising with the Commission had been appointed last year to the Overseas Territories Department of the Foreign and Commonwealth Office. The officials continued to work with several of the Territories in identifying and pursuing development aid from the Commission as provided for under the November 2001 decision of the Association of Overseas Countries and Territories of the European Union.

70. The representative said that the United Kingdom continued its informal cooperation with the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. Most recently, a United Kingdom representative had presented a paper on constitutional developments in the United Kingdom Territories at the seminar organized by the Special Committee in Papua New Guinea in May 2004. Perhaps the most positive recent development was the proposal for a visit to Bermuda with a view to considering movement towards that Territory's delisting. The Secretariat was in touch directly with Bermuda on preparing for that.

C. Consideration by the General Assembly

71. On 10 December 2004, the General Assembly adopted resolutions 59/134 A and B, without a vote. Section X of resolution 59/134 B concerns the Turks and Caicos Islands.

Notes

[1] The information contained in the present paper has been derived from published reports and from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations.

[2] Population and Census Office at www.turksandcaicos.tc/Government.

[3] M2 Presswire, 19 November 2004, at www.m2.com.

[4] Information provided by the administering Power.

[5] 2004/05 budget address, p. 9, at www.turksandcaicosislands.gov.tc/OtherPages/SPEECHES.htm.

[6] Economist Intelligence Unit, *Country Report: Turks and Caicos Islands, October 2004* (by subscription).

[7] 2004/05 budget address, supra note 5, p. 26.

[8] Grand Turk Chamber of Commerce general meeting, 21 October 2004, at www.turksandcaicosislands.gov.tc/GIS/News Chamber%20of%20Commerce.pdf.

[9] "Turks and Caicos sees little impact from IRS actions", *Business Insurance*, 15 March 2004.

[10] "Turks and Caicos Islands: Government signs up to EU directive", *International Money Marketing*, March 2004.

[11] Caribbean Development Bank, *2003 Annual Report*, at www.caribank.org.

[12] Economist Intelligence Unit, *Country Profile 2004: Turks and Caicos Islands* (by subscription).

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United States Virgin Islands

Working paper prepared by the Secretariat

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I. Background information

1. The Territory of the United States Virgin Islands[1] is located in the eastern part of the Caribbean Sea, approximately 1,000 miles south-east of Miami and 45 miles east of Puerto Rico. The Territory is made up of three main islands (St. Croix, St. John and St. Thomas) and one small island (Water Island), transferred in 1996 by the United States Department of the Interior to the jurisdiction of the territorial Government. The capital, Charlotte Amalie, is located on St. Thomas.

2. The islands were Danish territory from 1754 to 1917, when they were purchased for $25 million by the United States of America. The Office of Insular Affairs carries out the Secretary of the Interior's responsibilities for the Territory and other insular areas. The Office's Strategic Plan for the period 2000-2005 is based on two goals: assisting the Islands in developing more effective government by providing financial and technical assistance, and helping to manage federal-island relations by promoting appropriate federal policies.[2]

3. According to the Office of Insular Affairs, the population of the Virgin Islands in 2004 stood at 108,775, with 4,252 people living in St. John and the rest almost equally divided between St. Thomas and St. Croix. After a period of 7 per cent growth between 1990 and 2000, the population has remained nearly unchanged since 2000. About 50 per cent of the population is younger than 35 years of age. According to the Central Intelligence Agency *World Factbook*, the composition of the Virgin Islands population is 78 per cent black, 10 per cent white and 12 per cent other. Eighty-one per cent of the population is West Indian, while 13 per cent were born in the United States mainland.[3]

II. Constitutional, legal and political aspects

A. General

4. The United States Virgin Islands constitute an organized, unincorporated Territory of the United States. With the adoption by the administering Power of the Organic Act of the Virgin Islands (1936) and its revision in 1954, the Territory was granted a measure of self-government over local affairs. Executive power is vested in a Governor, who has been elected on the same ticket as the Lieutenant-Governor since 1970 by popular vote for a four-year term. The Governor is limited to two consecutive terms, but can be elected again after one full term out of office. The Governor appoints, with the advice and consent of the Legislature, the heads of the executive departments and has the power to approve or veto legislation and issue executive orders.

5. Since the Organic Act of the Virgin Islands was revised by the administering Power in 1954, there have been four attempts to replace it with a locally written constitution approved by the people of the Territory, which would organize the internal mechanisms of Government. Although the United States Congress authorized the adoption of a local constitution in 1976, none of the four attempts have been successful. Regarding the Territory's political status, the first and only referendum on a range of political options was conducted in 1993. However, only 27 per cent of the electorate voted and, of those, 80.3 per cent voted to retain the current status. The result was considered invalid since less than 50 per cent of the

electorate had voted. In January 2003, the Governor announced during his State of the Territory address that he would advocate convening a Fifth Constitutional Convention to draft a constitution that would "allow for more effective government and a structure that is responsive to the needs of all residents and enhances and empowers local autonomy for the islands of St. Croix, St. John and St. Thomas through municipal government".[4] After two failed legislative attempts to establish a constitutional convention in 2000 and 2001, the Governor, in October 2004, signed into law the Fifth Constitutional Convention. The Convention will be funded with $100,000 from the Territory's budget and will be formed by 30 delegates to be chosen in a special election in February 2006. As the law points out, the Convention has to forward its draft by 27 July 2006 to the Governor, who will submit it to the United States President. Upon its approval by the United States Congress, a referendum to ratify the document could be held during the next election in November 2006.[5]

6. In its policy agenda for the 26th Legislature, the so-called Consensus Majority, which holds 8 of the 15 seats in the Territory's legislative chamber, declared that it intended to "adopt the Revised Organic Act of 1954 as [their] Constitution and, upon the approval of the Congress of the United States, move to the Fifth Constitutional Convention to address amendments to the Constitution".[6] In his 2005 State of the Territory address, Governor Turnbull supported this proposal, calling it perhaps the best mechanism to adopt their own constitution.[7] However, no bill on this issue has yet been introduced.

7. The judicial system has recently experienced a major change. Previously, the Virgin Islands was the only jurisdiction under the United States flag without its own appellate court to interpret its laws, although, as pointed out by the Governor, the United States Congress had authorized the creation of such a court more than 20 years ago through the Omnibus Territories Act.[8] In October 2004, the Governor signed into law a unanimously adopted bill of the Legislature which established the first Virgin Islands Supreme Court. The Court will be composed entirely of local judges, a chief justice and two associate justices, appointed by the Governor and confirmed by the Legislature. Its main responsibility is to attend to appeals originating from the Territorial Court, which, until recently, had been referred to the United States Federal District Court of the Virgin Islands. Supporters have noted that the Supreme Court is vital to helping the Territory grow in self-governance and have claimed that it will help prevent intrusion of federal jurisdiction into local matters. However, Superior Court Presiding Judge Maria Cabret recently pointed out that the $3.5 million operating cost of the Supreme Court during its first year was still not accounted for.[9] In order to guarantee a successful transition, the Third Circuit Court of Appeals will hear Virgin Islands Supreme Court appeals for the next 15 years.

8. Apart from the new Supreme Court, the judicial system includes two courts: the United States Federal District Court of the Virgin Islands, whose judges are appointed for a 10-year term by the President of the United States; and the Territorial Court of the Virgin Islands, whose nine judges are appointed by the Governor. The latter, which changed its official name to Superior Court of the Virgin Islands after the creation of the Virgin Islands Supreme Court, assumed full jurisdiction over all local civil matters in 1991 and all local criminal actions in 1994.

9. The Legislature, a unicameral body comprising 15 senators, is elected for a two-year term by a popular vote. The Legislature has the power to enact such laws as are consistent with federal laws made applicable to the Territory by the United States Congress and do not impair rights guaranteed by treaties, international agreements or rights contained in the Organic Act's Bill of Rights. The latter include rights of due process and equal protection, and freedom of speech, assembly and religion. The Legislature may also issue bonds, levy customs duties (up to 6 per cent) and oversee executive departments. Legislation is subject to approval by the Governor, whose veto can be overridden by two thirds of the Legislature. The United States Congress retains the right to annul any act of the local legislature. The United States Virgin Islands is represented in the House of Representatives of the United States Congress by a popularly elected delegate who may vote in the committees in which he or she is a member, but not in floor votes. There is no representation in the United States Senate, nor does the Territory have the constitutional right to participate in elections for the President of the United States. In that respect, similar to previous demands of the Governor, the Virgin Islands Delegate to the United States Congress, Donna Christian-Christensen, sponsored, together with her counterparts from American Samoa and Guam, a resolution in July 2004 proposing an amendment to the Constitution of the United States which would extend voting rights to those living in overseas Territories.[10]

10. In 2000, Island voters overwhelmingly supported a proposal to reduce the size of the Legislature from 15 members to 9 members. However, the measure was later defeated by 10 votes to 5 in the Territorial Senate.

B. Recent elections and political issues

11. In the last elections for the position of Governor, held in 2002, incumbent Charles W. Turnbull of the Democratic Party, in office since January 1999, was re-elected for his second and last four-year term, with 50 per cent of the vote. Another incumbent, Donna Christian-Christensen of the Democratic Party, was re-elected in 2004 to her fifth two-year term as the United States Virgin Islands Delegate to the United States Congress, with 66 per cent of the vote. The elections were interpreted as support for Ms. Christensen's controversial proposal to create a Chief Financial Officer position for the Virgin Islands (see para. 20). The next election for Governor, the Legislature and the Delegate to the United States Congress will be held in November 2006.

12. The last legislative elections were held on 2 November 2004, which resulted in the election of 15 senators, namely, 10 Democrats, 3 members of the Independent Citizens' Movement and 2 non-party affiliates. Although the results suggested a solid Democratic majority in the Legislature, three Democratic senators split with their party after the elections and, together with the Independent Citizens' Movement and the non-party affiliated senators, formed the Consensus Majority.[11]

13. In the annual State of the Territory address in January 2005, Governor Turnbull reiterated the goals of the previous year: increasing Government revenues while restricting Government spending and supporting the private sector. Stressing the accomplishment of significant gains in each of those critical areas, while pointing out the possible impact of new federal tax laws for the territorial budget, he called the State of the Territory one of challenge and hope. Additionally, the

Governor called for urgent and constant attention for St. Croix, which has experienced economic decline and high crime rates during recent years.[12]

III. Budget

14. The precarious fiscal condition of the Territory at the end of the 1990s and the measures taken at the federal and local levels to avoid bankruptcy have been described in detail in previous working papers (A/AC.109/2001/3, paras. 13-17 and A/AC.109/2002/4, paras. 13-17). Since 2000, the Territory's budget has been agreed on in the framework of the Office of Insular Affairs 2000-2005 Strategic Plan, which, inter alia, calls for all insular Governments to implement long-term plans to improve financial management by 2005. According to the Governor, his Administration has worked painstakingly to revitalize and strengthen the relationship with the federal Government by completing long overdue audits and bringing the local government into compliance with federal auditing standards for the first time. The newly placed confidence placed in the Virgin Islands by the federal agencies has reportedly led to an increase in federal grant funding by approximately 50 per cent since 1999, reaching $282 million in 2004, according to the United States Secretary of the Interior.[13]

15. In 2004, the Government of the Virgin Islands and the Department of the Interior started negotiations to reform the 1999 memorandum, which provides the Territory with federal assistance. In the first draft, Governor Turnbull asked for $88 million in federal financial assistance for the next five years. In exchange, the Territory would be committed to, inter alia, a balanced budget. The Office of Insular Affairs indicated that the provision of $88 million was unlikely and asked for further financial reforms, including reductions in overall spending levels. However, no decision has yet been taken on either side.[14]

16. Despite signs of a financial recovery since 1999 and a surplus of $35 million at the end of fiscal year 2001, the Territory's budget ran back into deficit in fiscal year 2003 ($4.6 million). The Bureau of Economic Research projected a deficit of $9.6 million at the end of fiscal year 2004. For fiscal year 2005 the deficit is currently projected to be $92.4 million. The Virgin Islands Bureau of Economic Research, therefore, speaks of the persistent nature of the deficit, which requires steps to address the structural imbalance between revenue and expenditure.[15]

17. Federally imposed tax cuts produced an estimated $57 million in revenue losses in 2003, which were partly offset by a $5 million payment from the United States Treasury Department. To address a projected deficit of $152 million in the spring of 2003, the Government embarked on numerous cost-cutting measures to reduce allotments to departments and agencies for a total reduction of $46 million. In July 2003, legislation was approved for the issuance of $235 million in new bonds.

18. In October 2004, President Bush signed into law the American Job Creation Act, requiring, inter alia, strict residence and source-income rules. However, the law could jeopardize the Virgin Islands Economic Development Commission tax incentive programme. According to media reports, about 100 businesses are participating in the Economic Development Commission programme, which provides tax breaks of up to 100 per cent of personal income tax. The new law requires the owners of the Economic Development Commission companies to spend

at least 183 days per year in the Territory and stipulates that income must be directly linked to the Territory. According to Governor Turnbull, the Virgin Islands could lose up to 600 jobs and up to $63 million in revenue in fiscal year 2005 because of these new federal tax laws.[16]

19. In his 2005 State of the Territory Address, the Governor stressed the Government's efforts to increase its tax revenues by nearly 20 per cent, from $464 million in 2003 to $564 million in 2004. The Governor ascribed this mainly to the Economic Development Commission tax incentive programme, which generated approximately $127 million, and to the new rum tax formula the United States Congress extended in September 2004, allowing the local rum industry to increase production by 20 per cent. Additionally, after securing the cancellation of the $46 million hurricane Hugo loan in December 2001, the Federal Emergency Management Agency also approved full cancellation of the outstanding balance of the $185 million hurricane Marilyn loan. As a result, the rating on the Government's recent bond issue has been upgraded.[17]

20. In November 2003, the Delegate to Congress, Donna Christian-Christensen, introduced controversial legislation that called for the creation of a Chief Financial Officer position. That person would be chosen by the Governor from a list of three previously nominated candidates, subject to confirmation by the Legislature, for a five-year period that would not be concurrent with the term of the Governor. According to a release from the Delegate, the Chief Financial Officer would assume the functions of the Office of Management and Budget and would oversee and approve all spending of the Government, and be authorized by law to disapprove items of spending which would send the Government into financial deficit. After a number of public hearings on the proposals, the United States House of Representatives finally approved the bill unanimously in September 2004, but it expired as per congressional rule due to inaction in the United States Senate. Ms. Christensen therefore brought the bill forward again in January 2005.[18]

21. Independently of whether the bill will finally be approved by the United States Congress, the question remains whether it will be signed into law by the current United States Administration. According to a statement by a top official of the Department of the Interior, the Administration believes that it is important that self-government be preserved and that all challenges, including fiscal problems, be fully considered within the territorial Government.[19] According to media reports, the opposition of the Department of the Interior to the bill represents a major political victory for Governor Turnbull, who has strongly rejected the initiative from the beginning, as did a number of members from the Islands Legislature. The Governor criticized the proposal, and characterized a Chief Financial Officer as someone who would be unelected and unaccountable, stating that it would represent a backward step on the journey to more self-government for the Virgin Islands.[20]

22. Until July 2004, the Territory operated on the budget for fiscal year 2003, after the Governor had vetoed the 2004 budget in its entirety in December 2003 because of his opposition to wage raises for government employees in the amount of $9.2 million. In 2004 he submitted a supplemental budget providing for $2.8 million in wage raises just for teachers. The Legislature later increased that amount to $9.2 million, extending the raise to all government workers. The Governor vetoed that provision, but was overridden by the Legislature in July 2004. Meanwhile, in May 2004 the Governor submitted a $565.5 million budget proposal for 2005, $25

million less than he had proposed for fiscal year 2004, which included three new taxes (a $3 hotel room tax, a $3 annual cellphone user tax and a $50 annual vehicle fee) to generate an additional annual revenue of $9 million. After long debates into the fiscal year 2005, the Legislature approved a $607 million budget in October 2004, which cancelled the proposed new taxes but included the financing of the $9.2 million raise for government workers, as well as a $500,000 increase for the employees of the Legislature. In November 2004 the Governor vetoed both raise proposals. Governor Turnbull argued that the revenue picture had changed completely because of the new federal tax laws and their impact on the Territory's Economic Development Commission programme. Although he declared that he supported the negotiated raises for government employees, he added that he could not "in good conscience approve this item at this time knowing full well that the money [was] not there".[21]

IV. Economy

A. General

23. In 2003, according to the Bureau of Economic Research, the gross domestic product (GDP) per capita in the Virgin Islands was estimated at $18,900, corresponding to a growth rate of 3.2 per cent since 2003. In mainland United States during the same year, GDP per capita was estimated at $37,800. Tourism is the primary economic activity, accounting for more than 60 per cent of GDP. It is followed by the manufacturing sector, which consists of petroleum refining, textiles, electronics, pharmaceuticals and watch and jewellery assembly.[22]

24. For the first half of fiscal year 2004, economic health, as measured by employment and output, was mixed. The construction sector, once one of the most important pillars of the Virgin Island's economy, together with manufacturing, information and other services sectors, continued to decline; the areas of wholesale and retail trade, leisure and hospitality, as well as education and health services, improved, while financial activities and professional and business services gained importance and turned out to be among the strongest sectors, contributing more than $100 million to the economy in 2004.[23]

25. According to the Governor, one of the key elements in the fiscal recovery plan was to strengthen the Economic Development Commission tax incentive programme. He noted that the Economic Development Commission beneficiaries generated about one third, or $127 million, of all income tax revenues and nearly 8.5 per cent, or 3,000, of jobs in the Islands. However, as mentioned earlier (see para. 18), new federal tax laws have introduced stricter requirements to the programme, which could have a strong impact on the revenue of the Territory, endangering the increase of nearly 20 per cent experienced in 2004. The firm of PricewaterhouseCoopers recently confirmed that in a study commissioned by the Government, assessing that tax losses would be between $83 million and $100 million and that 2,000 to 2,300 jobs would be lost by 2007.[24]

26. In September 2004, United States Secretary of the Interior, Gale Norton, hosted an island business opportunity conference in Los Angeles, the second of its kind, to promote United States overseas territories' potential for business investments. Nearly 1,000 business and Government leaders attended the two-day

event, where the Secretary stressed the advantages of doing business in the Territories, such as the protection provided by the United States currency system and the legal system, as well as the duty-free access to the mainland for locally made goods.[25] Among the topics covered at the conference were financing and procurement, industrial parks, water, wastewater, recycling infrastructure and tourism options, including the cruise sector and theme parks.

27. According to the governmental Bureau of Economic Research, the Territory is in a good position to experience a more balanced expansion in fiscal year 2005, given the continued expansion of the United States economy and planned and ongoing capital investment projects. Concerning the latter, the governmental Bureau of Economic Research report cites, among others, the following planned or ongoing capital investment projects: the Hovensa $400 million desulphurization unit and the $45 million Carambola Convention Centre on St. Croix; the $150 million Yacht Haven Hotel and Marina, which is expected to create 600 new jobs when completed; and the $16 million Enighed Pond development.[26]

28. Regarding trade, the United States Virgin Islands is exempt from the Jones Act, which requires that freight moving between United States ports be carried by United States-flagged ships. The Territory benefits from other favourable trade concessions as part of its relationship with the administering Power. Nonetheless, the Territory generally runs at a trade deficit, owing to its heavy reliance on imported goods, most of which come from the United States mainland. In 2003, the Territory finished with a slight trade deficit in the amount of $375,000.[27]

B. Economic sectors

1. Agriculture and fisheries

29. See 2003 working paper A/AC.109/2003/1, paragraphs 17-18.

2. Manufacturing and industry

30. Manufacturing incentives are provided by a trade regime that confers unique advantages on the United States Virgin Islands. Items assembled in the Territory can be exported duty free into the United States, even if up to 70 per cent of the value consists of foreign dutiable components. Other incentives include 90 per cent exemption from local corporate income taxes for 10 to 15 years for new manufacturers. Goods manufactured for export include watches, textiles, electronics, pharmaceuticals and rum, which accounts for 15 per cent of the Territory's export revenue.

31. Employment in manufacturing has dwindled in recent years, owing primarily to the closure of several watch assembly plants in the Territory in the late 1990s. In 2004, the United States Congress extended and expanded legislation, which provides federal wage credits to the Territory's watch industry and to manufacturers of fine jewellery until 2015. The manufacturing sector, primarily the watch industry, lost another 50 jobs in fiscal year 2003, after the largest employer and the second largest watch exporter closed operations in December 2002. Currently, there are three firms in the industry employing about 115 workers.[28]

32. The industrial sector is dominated by Hovensa LLC, one of the largest refineries in the world, situated in St. Croix, which produces 440,000 barrels of

refined petroleum products daily. Jointly owned by the Amerada Hess Corporation and Petróleos de Venezuela, Hovensa completed a $535 million coker unit in 2002 and plans to build a $400 million desulphurization unit in 2005 to meet federal Clean Air Act standards. The Government supported both construction projects with private activity bonds in the amount of $27.5 million and $101 million respectively.[29]

3. Construction

33. Having been the strongest performing sector in 2002, averaging 3,182 jobs, the construction sector suffered significant losses with the completion of the Hovensa coker unit, which created 2,000 construction jobs. Since then, the number of construction jobs has fallen by more than 45 per cent, to 1,737 jobs in fiscal year 2003, and stood at 1,660 in the first half of fiscal year 2004. However, construction is expected to be strong over the next year, supported by major hotel and casino construction, the upgrade and expansion of roads, housing and seaports and the development of commercial and residential properties, according to the Bureau of Economic Research (see also capital projects in para. 27). The construction of the Hovensa desulphurization unit is expected to create about 400 construction jobs. Lower mortgage rates have also boosted private construction and real estate development with an increase of 90 per cent in the first quarter of 2004.[30]

4. Tourism

34. The tourism sector, the most important industry of the Islands, has experienced a buoyant comeback since the end of 2003, according to the Bureau of Economic Research.[31] The 5,059 hotel rooms on the Islands enjoyed an average occupancy rate of 66.1 per cent in 2004, accommodating over 666,000 overnight guests, an increase of 10.3 per cent over 2003 figures, according to the Governor.[32] Visitor arrivals by air were estimated at 637,000, an increase of 2.8 per cent over the previous year. Over 1.9 million cruise visitors arrived in 2004, up 12.7 per cent over 2003 numbers. The overall total of visitor arrivals reached a record 2.6 million, representing an increase of 12.2 per cent over the 2003 total. Relying on those numbers, the Governor stated that that represented "the strongest period of growth for this critical benchmark in a decade".[33]

35. Since April 2004, Danish charter flights from Europe have been arriving in St. Croix. As more than 85 per cent of the seats were sold out in the first months, the President of the Danish travel agency was optimistic about surpassing the projected figure of 3,200 passengers during the first year.[34] The Governor noted in his State of the Territory address that there was an increasing demand to visit the Islands not only by travellers from Denmark, but also from Latin America and Northern Europe.[35] Beginning in March 2005, Delta Airlines will resume non-stop flights twice a week between Atlanta and St. Croix after a five-year break. After a one-year break, American Eagle returned to offer three daily flights between St. Thomas and St. Croix. While that decision was widely welcomed as an opportunity to foster tourism on St. Croix, the Government was criticized for having committed to guarantee the airline a certain level of revenue.[36]

36. Reporting on tourism during his State of the Territory address on 31 January 2005, the Governor noted that much of tourism investment continued to be geared to

revitalizing the economy of St. Croix, which had gone into recession after hurricane Hugo in 1989.

37. After the completion of works to expand and renew St. Croix's international airport, the Administration now faces the dredging of Frederiksted Harbour to facilitate the arrival of larger cruise vessels.[37] According to media reports, St. Croix has recently been criticized as a cruise ship destination, due to the island's heavy police presence and the long distance cruise ship passengers have to travel between the docks and the commercial areas.[38] In his 2004 State of the Territory address, the Governor announced that the Administration would spend $2 million in federal highway funds to extend the Christiansted boardwalk from the Holger Danske Hotel to the seaplane terminal. He also announced that $11 million had been committed to redevelop and revitalize the Frederiksted waterfront, and $15 million had been set aside to rehabilitate and restore historic buildings on all three islands, which all serve as major tourism attractions.

C. Finance

38. Owing to lower interest rates, the financial service sector has become one of the strongest performers in the Territory, contributing over $100 million to the economy during 2004, according to the Bureau of Economic Research. In the first half of fiscal year 2004, the sector grew by 8.2 per cent. After an increase of 16 per cent in 2003, the number of finance-related jobs continued to grow slightly in 2004, averaging 2,395 jobs. Early in 2005, the Government will analyse the feasibility of establishing an electronic stock exchange on St. Croix. However, the outlook remains elusive, as that sector is expected to be the one most affected by the federal tax changes mentioned earlier (see para. 18).[39]

D. Transportation and communications

39. The Territory has five major docking facilities, which can accommodate cruise ships and some naval vessels. Three of the docks are on St. Croix, namely South Shore, Gallows Bay and Frederiksted. The remaining two are on St. Thomas, namely, the facilities operated in Crown Bay by the Virgin Islands Port Authority, a semi-autonomous government agency, and those privately owned by the West Indian Company. According to the Governor, the Government completed public sector capital projects related to the Island's transportation facilities valued at more than $70 million. The tourism infrastructure especially benefited from the construction of the $9.3 million Red Hook ferry terminal on St. Thomas in 2004. For 2005, the Governor announced public projects valued at more than $200 million, citing the $30 million Crown Bay port and retail complex on St. Thomas.[40]

40. The Port Authority operates two international airports, Cyril E. King Airport on St. Thomas and Henry E. Rohlsen Airport on St. Croix. St. Croix's airport expansion project, which was completed in 2002, includes a new terminal and a control tower, finished in 2004, and a lengthened 10,000-foot runway, allowing jumbo aircraft to be flown directly to St. Croix from the United States, Canada, Europe and South America.

41. In April 2004, the United States House of Representatives passed the Transportation Equity Act, a new highway transportation bill, which will provide the Virgin Islands with $134 million in federal funding over the next six years to

improve roads and highways.[41] Concerning public transportation in the Territory, the United States appropriated $2.4 million to enhance the system to upgrade the Islands' VITRAN bus service.[42]

E. Utilities, water and sanitation

42. Electricity is thermally generated using imported fuels. The Water and Power Authority serves approximately 47,000 customers. Major generating facilities are located on St. Thomas and St. Croix, and a standby facility is located on St. John. During 2004, the sentiment among the Islanders was that electricity was too expensive. In his 2005 State of the Territory address, the Governor also stated that prices were too high and announced that he would soon enter into discussions with Water and Power Authority officials in an effort to possibly reduce prices.[43]

43. Owing to limited freshwater supplies, salt water is used extensively for non-domestic purposes, including firefighting and sewerage. The Water and Power Authority desalinates water and collects rainwater for domestic use. A desalination plant on St. Thomas produces 4.45 million gallons per day. Wells, particularly on St. Croix, supply the remainder of the freshwater necessary. Owing to the high cost of water, average daily consumption is about 50 gallons per person per day, about one third the United States average. In 2004, the Authority faced problems in realizing a court ordered upgrade of the sewer system, especially on St. Croix, and received an extension until 28 February 2005 to install additional pumps.[44] The Territory has received $10 million in special appropriations from the United States Congress for that purpose. To improve the Territory's insufficient waste disposal system, the Waste Management Authority was established in 2004 with grants from the Department of the Interior and rum tax revenues.

V. Military issues

44. Following the terrorist attacks in the United States in 2001, homeland security has become a major concern in the United States Virgin Islands, as well as on the mainland. Therefore, the Government has asked for the return of the Coast Guard and advocates for a permanent presence of the United States Customs and Border Patrol on the Islands.[45]

VI. Social conditions

A. Labour

45. Employers in the United States Virgin Islands must follow federal and territorial labour laws, such as those regulating minimum wages, occupational health and safety standards and payment of Social Security tax and unemployment insurance. In recent years, the Government has focused on reducing employment in all three branches of Government, while promoting private enterprise and investments to create new jobs. The unemployment rate fell in fiscal year 2004 from 9.5 to 8.8 per cent. The number of civilian jobs declined from 44,062 to 43,415. Despite the recovery of the economy and an economic growth rate of 3.2 per cent, job growth is non-existent, according to the Bureau of Economic Research.[46]

St. Croix was particularly affected, averaging 11.1 per cent unemployment in March 2004, whereas the unemployment rate in St. Thomas and St. John stood at 7.2 per cent. Total public sector employment, which accounts for 30 per cent of all jobs in the Territory, was virtually at the same level as in fiscal year 2002. There are currently 12,545 public sector jobs, compared to an average of 12,518 in fiscal year 2002. The number of local government jobs averaged 11,626 in fiscal year 2003, compared to 11,621 jobs in fiscal year 2002.

B. Education

46. Education is compulsory and free for all children between 5 and a half and 16 years of age. The territorial Department of Education administers 32 schools on St. Thomas, 14 on St. Croix and 2 on St. John. The 2000 census data, issued in February 2002, reflected school enrolment of children three years and older to total 32,119. Of those, 52.5 per cent attended elementary school, 23.2 per cent attended high school and 9 per cent attended college or graduate school. The census also reported that 60.6 per cent of the population aged 25 and over are high school graduates, while 16 per cent have bachelor's degrees or graduate degrees.

47. The University of the Virgin Islands has campuses on St. Thomas and St. Croix and approximately 2,500 full- and part-time students. It offers bachelor's degree programmes in 33 fields and master's degree courses in education, business administration and public administration. Since 2003, the University of the Virgin Islands has also had a research and technology park on St. Croix. In January 2005, the University became one of the five founding members of the United Nations consortium of small island States. The International Committee, whose governing board is chaired by University of the Virgin Islands President LaVerne Ragster, will advocate the sharing of resources, information and research by small island States.[47]

48. One of the issues of concern in recent years has been the Territory's high school dropout rate (for details, see A/AC.109/2003/1, para. 37).

49. In recent years, and again in January 2004, the Governor has spoken of education as being the number one priority of his Administration. That matter became even more pressing in 2002 after all four of the Territory's public high schools lost their accreditation with the Middle States Association of Colleges and Schools. The Charlotte Amalie High School and the Ivanna Eudora Kean High School received an evaluation team of the Association in 2004, and the Government is optimistic that those schools will be reaccredited in April 2005.[48] Two other schools are scheduled to host the evaluation team in March 2005. The Government is also working to improve teacher training and to provide enhanced professional development opportunities for teachers to increase the number of gifted and talented courses and advanced placement courses for students.

50. Regarding academic standards in the Territory's public schools, the testing scores for fourth-graders and eighth-graders in reading comprehension are lower than the national average, according to nationwide tests conducted by the National Center for Education Statistics. Out of a possible 500 points, Virgin Islands fourth-grade students averaged 179. The national average was 219. The data also shows that only 6 per cent of fourth-grade students and 7 per cent of eighth-grade students in the Virgin Islands are proficient in reading comprehension. By comparison, the national proficiency average is 30 per cent for the fourth grade and 31 per cent for

the eighth grade. Virgin Island scores were either at or near the bottom of the national scale, with eighth-grade students scoring only better than eighth-graders from American Samoa.[49]

C. Public health

51. The Roy L. Schneider Hospital on St. Thomas offers general service and has 169 beds. The Governor Juan F. Luis Hospital on St. Croix has 120 beds. In 2004, the Eldra L. Schulterbrandt Medical Facility opened on St. Thomas and renovations at the Charles Harwood Memorial Complex have been completed, transforming it into a state-of-the-art, one-stop health facility, which serves an average of 200 patients daily.[50] The Governor Juan F. Luis Hospital on St. Croix received high marks and accreditation in 2004 from the Joint Commission on Accreditation of Healthcare Organizations, an independent organization that evaluates health-care centres throughout the United States. Accreditation by the Joint Commission allows hospitals to remain eligible for Medicare funds and attracts grant-giving agencies, donors and highly qualified professionals.

52. Construction for a long-awaited cancer institute within the Schneider Hospital is expected to be completed by June 2005, alleviating the need for patients to be treated off the Islands. Funding for the $10 million state-of-the-art facility was provided by, inter alia, private donation, $5 million from a bond issue, $5.8 million from the Territory's tobacco settlement proceeds and $2 million from Partners for Health fund-raising, and $1.7 million was appropriated by the Virgin Islands Legislature to assist with personnel recruitment. In January 2004, the first hospital-based practical nurse education programme began at the Schneider Hospital, and in February 2004, the long-awaited reopening of a long-term mental health facility for St. Thomas took place.

53. In his 2005 State of the Territory address, the Governor underlined the importance of the completion of two other capital projects on St. Croix: the $1.5 million renovation of the Richmond Senior Citizens Centre, which houses 45 elderly patients, and the Youth Rehabilitations Centre, with two new dormitories and a multi-purpose centre.[51] The latter aims to avoid mixing juveniles who have committed less serious crimes with those who have been involved in major criminal activities.

54. HIV/AIDS continues to be a serious public health problem in the Territory. Federal statistics quoted by the media report the Virgin Islands as having the fourth highest per capita incidence of HIV/AIDS among the states and Territories. According to the media, by December 2003, 259 Virgin Islanders were reported to be living with AIDS, while 224 were HIV-positive. Since 1983, more than 800 cases of HIV-AIDS have been reported.[52] However, it is considered that many of those who are infected with the virus are unaware of it. Local public health officials are working to meet the national challenge of cutting the number of new cases of HIV infection in half by 2005, while raising awareness among those who go untested and untreated. Currently, the Territory obtains funds through federal programmes for HIV/AIDS testing, medicating, prevention, education, counselling and surveillance.

55. A health administration issue that has remained on the table for many years is the legislative cap on federal reimbursements for the health care provided to the uninsured poor in the Territory and efforts by the Territory's Government and its

Delegate to Congress to have the cap removed. In October 2002, representatives of the Territory's two hospitals, the Delegate to Congress and the heads of the federal Center for Medicare and Medicaid began holding meetings in Washington to find ways to alleviate the Territory's financial shortfalls after paying the high cost of treating its elevated number of uninsured patients. Grant applications to offset the federal cap were initiated in November 2002.[53]

D. Human rights and related issues

56. See 2003 working paper (A/AC.109/2003/1), paragraph 43.

E. Crime and crime prevention

57. High crime rates are a matter of concern in the United States Virgin Islands. According to media reports, in 2003 the Islands recorded 36 homicides, six more than in 2003, but fewer than a record 43 in 2002, giving the Territory a per capita homicide rate which is five times the national average. The number of armed robberies and shootings also increased, while rape was the only violent crime that decreased in the Territory, with 69 cases reported.[54] According to the Federal Bureau of Investigation's Uniform Crime Reports, violent crime declined by 2 per cent nationwide during the first half of 2004.[55] The local media also report frequent incidences of domestic violence and child abuse. The Government has acknowledged that high crime rates undermine efforts to increase tourism and improve the economy. In his 2005 State of the Territory address, the Governor called safety and security the Government's most important responsibility. He also stressed the value of a neighbourhood watch group programme, stating that the Police Department "could not have been successful in reducing crime in the last year" without the help of many residents.[56] To fight violent crime, the Police Department will publish a five-year strategic plan in February 2005.

58. According to Government and police authorities, the transit of illegal drugs through the Territory is a root cause of much of the violent crime. In 1994, the Office of National Drug Control Policy designated the United States Virgin Islands, along with Puerto Rico, a High Intensity Drug Trafficking Area. In 2004, Virgin Islands officials acknowledged publicly, for the first time, the existence of a crime organization called "The Commission", which is believed to be responsible for various shootings and homicides.[57]

59. In 2004, several current and former Government officials faced indictments or sentences because of alleged corruption. Former senator and candidate for Governor in 2002, Alicia Hansen, and four other defendants were indicted for defrauding money from the Government through a multimillion-dollar sewer repair contract.[58] *The Virgin Islands Daily News* recently published a list of federal audits from recent years, listing various federal fund spending irregularities.[59] The newly elected President of the Legislature, Senator Lorraine Berry, sponsored the Omnibus Justice Bill, which was approved unanimously in September 2004 by the Legislature. It included, inter alia, criminalizing identity fraud and misuse of Government credit cards. However, the bill was vetoed by the Governor, arguing that some areas were in need of additional fine-tuning.[60]

VII. Environment

A. Protection of natural resources

60. According to the Environmental Protection Agency's Region 2 State of the Environment Report (1998), the ecosystems of the Caribbean islands face threats not only from natural disasters, such as hurricanes, but also from human impacts, such as improperly treated sewage, extensive land conversion and deforestation, over-fishing and tourism-related activities. Conversely, protecting the ecosystems is important if economy-generating tourism is to be maintained. Disposal of solid waste and sewage pose serious environmental problems in the United States Virgin Islands. In addition, reefs such as those near Salt River Bay in St. Croix depend on mangroves and sea grass colonies along the coast for protection against runoff.[61]

61. In January 2001, days before he left office, former President Clinton signed a proclamation creating the new Virgin Islands Coral Reef National Monument in submerged lands off St. John. The designation furthered the protection of the Virgin Islands National Park created in 1956 and expanded in 1962.[62] The Monument covers 12,000 acres off St. John and also increases Buck Island Reef National Monument off St. Croix from 900 acres to some 18,000 acres.

62. In September 2003, the Senate voted to rezone 120 acres of environmentally sensitive land at Great Pond on St. Croix for what was described as a 400-room hotel and an 18-hole golf course resort and conference centre. Although environmentalists pointed out that it could damage Great Pond, one of the few remaining wetlands on the Islands, senators, although sympathetic to the concerns, said that they could not ignore the dismal state of the Islands' economy and reject a project that stood to offer 800 jobs in its construction phase and 1,200 permanent ones after its completion in November 2005.[63]

B. Disaster preparedness

63. The United States Virgin Islands faces recurrent hurricanes and flooding, in addition to being located within an earthquake-risk zone. Four hurricanes brushed the Islands in 2004. Hurricane Jeanne, the most destructive, produced $2.5 million worth of damage to roads, power lines and sewers.[64] The Federal Emergency Management Agency, in general, provides programmes of mitigation, preparedness, response and recovery in the Territory through the Virgin Islands Territorial Emergency Management Agency. The territorial Government in 2004 resolved the problem of the federal loans covering 1989 hurricane Hugo and managed also the full cancellation of the loans taken out following 1995 hurricane Marilyn (see para. 15). In June 2000, the United States Senate Government Operations Committee approved a bill providing for the United States Virgin Islands to join the nation's Emergency Management Assistance Compact. That gives each member access to assistance from other member States or Territories in the event of disasters, in addition to the assistance provided by the Federal Emergency Management Agency.

VIII. Future status of the Territory

64. In October 2004, the Governor signed into law the Fifth Constitutional Convention, which is scheduled to draft a constitution by 27 July 2006. Upon its approval by the United States Congress, a referendum to ratify the document could be held during the next election, in November 2006 (see para. 5 for more details).

A. Position of the territorial Government

65. At the 4th meeting of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, on 8 June 2004, Carlyle Corbin, on behalf of the Government of the United States Virgin Islands, made a statement (see A/AC.109/2004/SR.4).

B. Position of the administering Power

66. In a statement made at the 72nd plenary meeting of the General Assembly, on 9 December 2003 (see A/58/PV.72), the representative of the United States said that the United States could not support the draft resolution (A/58/L.21) on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By adopting a narrow definition of decolonization, the draft resolution failed to take into account the complex reality of Non-Self-Governing Territories. For the United States, the very term "non-self-governing" seemed inappropriate for those who were able to establish their own constitution, elect their own public officers, have representation in Washington and choose their own economic path.

67. The United States was fully supportive when countries chose independence and was proud to welcome them as equal and sovereign partners. For Territories that did not choose independence, however, the United States also supported the right of people in those Territories to a full measure of self-government, including the rights to integration and free association. The world encompassed a variety of peoples, places and political circumstances, and that richness did not allow for just one path. The United States believed that a single standard of decolonization should not be applied to every Territory, and it called upon all Member States to respect the choices made by residents of Non-Self-Governing Territories. In conclusion, he said that the United States looked forward to a significant dialogue with the Committee of 24 in 2004, and that it was their hope that all parties would cooperate so that a reduction in the number of Non-Self-Governing Territories could be achieved.

C. Action by the General Assembly

68. On 10 December 2004, the General Assembly adopted without a vote resolutions 59/134 A and B. Section XI of resolution 59/134 B is devoted specifically to the United States Virgin Islands.

Notes

[1] The information contained in the present working paper was derived from published sources.

[2] United States Department of the Interior, Office of Insular Affairs, *Strategic Plan 2000-2005*.

[3] Office of Insular Affairs (see http://www.pacificweb.org); United States Central Intelligence Agency, *The World Factbook, 2004*.

[4] State of the Territory address delivered by Governor Charles W. Turnbull on 13 January 2003 and reproduced in full by *St. Thomas Source* on 14 January 2003.

[5] *The Virgin Islands Daily News*, 20 October 2004.

[6] Consensus majority's policy agenda for the 26th Legislature, 12 January 2005, and reproduced in full by *St. Thomas Source* on 13 January 2004.

[7] State of the Territory address, delivered by Governor Charles W. Turnbull on 31 January 2005 and reproduced in full by *St. Thomas Source* on 1 February 2005 (see www.onepaper.com/stthomasvi). Unless other sources are mentioned, all statements by the Governor quoted in the present working paper refer to that address.

[8] State of the Territory address 2005.

[9] *The Virgin Islands Daily News*, 1 October 2004, 18 January 2005.

[10] *Puerto Rico Herald*, 9 August 2004.

[11] *The Virgin Islands Daily News*, 24 November 2004.

[12] State of the Territory address 2005.

[13] Secretary of the Interior, Gale Norton (see http://www.businessopportunitiesconference.com), 24 September 2004.

[14] *The Virgin Islands Daily News*, 24 March 2004.

[15] United States Virgin Islands Bureau of Economic Research, Economic Review, May 2004.

[16] *The Virgin Islands Daily News*, Year in Review, 7 January 2005.

[17] State of the Territory address 2005.

[18] *The Virgin Islands Daily News*, 7 January 2005.

[19] Ibid., 17 June 2004.

[20] State of the Territory address 2005.

[21] *The Virgin Islands Daily News*, 17 November 2004.

[22] United States Central Intelligence Agency, *The World Factbook, 2002*; Economic Review, May 2004.

[23] Economic Review, May 2004.

[24] *PricewaterhouseCoopers*, "Economic impact of H.R. 4520 on United States Virgin Islands", 12 January 2005 (see www.pwc.com).

[25] Secretary Gale Norton (see http://www.businessopportunitiesconference.com), 24 September 2004.

[26] Economic Review, May 2004; *The Virgin Islands Daily News*, 7 January 2005.

[27] www.businessopportunitiesconference.com, 23 September 2004.

[28] Economic Review, May 2004.

[29] Ibid., State of the Territory address 2005.

[30] Economic Review, May 2004.

[31] Ibid., May 2004.

[32] State of the Territory address 2005.

[33] Economic Review, May 2004; State of the Territory address 2005.

[34] *The Virgin Islands Daily News*, 15 October 2004.

[35] State of the Territory address 2005.

[36] *The Virgin Islands Daily News*, 9 February 2005.

[37] Economic Review, May 2004; State of the Territory address 2005.

[38] *The Virgin Islands Daily News*, 15 January 2005.

[39] Economic Review, May 2004; State of the Territory address 2005.

[40] State of the Territory address 2005.

[41] United States House of Representatives, H.R. 3550, 2 April 2004.

[42] *St. Thomas Source*, 27 September 2004.

[43] State of the Territory address 2005.

[44] *The Virgin Islands Daily News*, 15 January 2005.

[45] State of the Territory address 2005.

[46] Economic Review, May 2004.

[47] *The Virgin Islands Daily News*, 25 January 2005.

[48] State of the Territory address 2005.

[49] *The Virgin Islands Daily News*, 23 June 2003.

[50] State of the Territory address 2005.

[51] Ibid.

[52] *The Virgin Islands Daily News*, 2 December 2004.

[53] *St. Thomas Source*, 15 October 2002; *The Virgin Islands Daily News*, 18 November 2002.

[54] *The Virgin Islands Daily News*, 7 January 2005.

[55] *Federal Bureau of Investigation*, 2004 Uniform Crime Reports.

[56] State of the Territory address 2005.

[57] *The Virgin Islands Daily News*, 7 January 2005.

[58] Ibid.

[59] Ibid., 21 January 2005.

[60] Ibid., 7 January 2005.

[61] *St. Thomas Source*, 23 April 2002.

[62] White House Press Office, 17 January 2001.

[63] *St. Thomas Source*, 4 September 2003; *The Virgin Islands Daily News*, 22 October 2003.

[64] *The Virgin Islands Daily News*, 7 January 2005.

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Pitcairn

Working paper prepared by the Secretariat

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I. Background information

1. Pitcairn is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland.[1] The Territory is located midway between Australia and South America at 25°S and 130°W. It comprises four islands in the eastern Pacific Ocean: Pitcairn, the only inhabited island (named after Robert Pitcairn, a midshipman who sighted it in 1767), Henderson, Ducie and Oeno. Although there is evidence of previous settlements by Polynesian peoples, Pitcairn was uninhabited when castaways from HMS *Bounty* (9 mutineers and 19 Polynesians) arrived there in 1790. Today, Pitcairn is inhabited partly by their descendants. The population of Pitcairn has been declining steadily since 1937, when it was approximately 200. As at 1 January 2004, the total population of the Territory was 47. It is usual for young people to leave the Territory at the age of 15 (usually in their third year of secondary schooling) to attend secondary school in New Zealand. The continuing exodus of young people has been a concern to the Islanders for many years. The entire population lives in Adamstown, the only settlement in Pitcairn.

2. The terrain in Pitcairn is of rugged volcanic formation, with a rocky coastline and cliffs lining nearly the entire perimeter of the island, giving no easy access from the sea. Although canoes can be launched in many places, Bounty Bay and the Tedside landing are the only two places on the island that offer a reasonably safe landing. Ships visiting the island remain at anchor some distance from the shoreline and visitors are ferried to the island in longboats. Pitcairn enjoys a subtropical climate. Mean monthly temperatures vary from around 19°C in August to 24°C in February.

3. The official languages are English and Pitkern, which is a mixture of eighteenth century English and Tahitian.

II. Constitutional structure and legal system

4. The Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970 are in effect the Constitution of Pitcairn. These instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, to whom he is accountable. In practice, the High Commissioner of the United Kingdom to New Zealand is appointed concurrently as Governor of Pitcairn and the responsibility for the administration of the island is accordingly vested in him and is discharged by him and his subordinate officers. The current Governor of Pitcairn is Richard Fell.

5. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The Government of the United Kingdom retains the power to legislate directly for Pitcairn by an Act of Parliament or an Order in Council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures. The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them. In response to requests from the

island for closer integration with the Governor's Office, a Governor's Representative has been stationed on the island since early 2003 to provide a direct line of communication to and from the Governor's Office.

6. Pitcairn Islanders manage their internal affairs through the Island Council. The Council was established by the Local Government Ordinance, which confers on it the duty to provide for the enforcement of the laws of Pitcairn and empowers it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the Islanders.

7. The Council is required to meet at least once a month. It consists of 10 members: the Island Mayor, who is elected every three years; the Chairman of the Internal Committee, who is elected annually; four Councillors, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; one nominated member, who is appointed annually by the Governor; and two advisory (non-voting) members, one of whom is appointed annually by the other members of the Council.

8. In December 1999, Pitcairn elected its first Mayor, thus ending the century-old practice of naming a magistrate to head the local government. In November 2004, the Island Council appointed the island's first female Mayor, Brenda Christian, ahead of full elections next year. The previous mayor was relieved of his functions when he was found guilty of serious sexual offences during trials held between September and November 2004 (see para. 36 below).

9. The decisions of the Island Council are implemented by the Internal Committee, whose formal functions are to carry out the orders of the Council and to perform such duties as the Council may direct. In practice, the principal function of the Committee is to organize and implement the public works programme, for which all adult and able-bodied Pitcairn Islanders are responsible. The Committee comprises the Chairman and such other persons (not being members of the Council or public officers) as the Council, with the Governor's approval, may appoint.

10. The Island Secretary and other non-elected officials (such as the postmaster, the radio officer and the police officer) are appointed by the Governor, invariably after consultation with the Council.

11. In order to vote in the Territory, individuals must have three years' residence in the Territory and be at least 18 years of age. Candidates for the posts of Mayor and Councillor must be at least 21 years of age and have resided on the island for three years. The Island Secretary prepares the register of voters in October of each year, and elections are held annually during the first two weeks in December.

12. An Island Magistrate is appointed from among the residents of Pitcairn and sits in the Magistrate's Court with or without assessors. Other magistrates, legally qualified in a Commonwealth country, are appointed to preside over the Court in matters outside the powers of the Island Magistrate. The jurisdiction of the Court is limited to offences triable summarily, committal proceedings and certain inquiries together with civil litigation up to a prescribed level. There is a right of appeal from the Court to the Supreme Court of Pitcairn, which is a superior Court of record and has jurisdiction in criminal and civil causes outside the competence of the Magistrate's Court. The Supreme Court is constituted by a judge, the Chief Justice or one of several puisne judges, with or without assessors. Further rights of appeal

may be made to the Pitcairn Court of Appeal, comprising three judges, and the Privy Council.

13. Pitcairn's Constitution, as embodied in the Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970, does not contain any provisions expressly guaranteeing human rights.

14. According to the administering Power however, the Magistrate's Court and the Supreme Court both have inherent jurisdiction governing human rights in particular areas arising out of the laws in force in the islands. The Governor has the ultimate responsibility for overseeing the implementation of human rights in Pitcairn. Any complaint of unlawful or oppressive action by any government official or authority can be raised with him, either directly or through one of his subordinate officers, and will be investigated thoroughly. If the complaint proves to be well-founded, he has the power to take appropriate remedial measures.

15. According to the administering Power, the Human Rights Act of the United Kingdom is taken to be a statute of general application, which is also in force in Pitcairn. The laws in force in Pitcairn, including those specifically related to human rights, are published by the Government of the United Kingdom and are accessible to all on the island through the office of the Island Secretary.

III. Economy

16. The principal sources of income for Pitcairn's public economy are the sale of postage stamps and the ".pn" Internet domain name. In 2003 and 2004, public expenditure was 927,000 New Zealand dollars (NZ$) and income was NZ$ 299,096, leaving a deficit of NZ$ 628,508. The shortfall was met from the Pitcairn Investment Fund, which was managed by an asset management company on behalf of the Pitcairn Administration. The Investment Fund was set up in the early 1990s with funds generated from the high number of stamp sales. Sales have since declined and the Investment Fund is now empty. Since December 2004, Pitcairn's costs have been met by budgetary assistance from the United Kingdom Government's Department for International Development. With the assistance of the new Island Commissioner, Leslie Jaques, appointed by the Governor in 2003, a number of projects have been planned with a view to creating a sustainable income for the island and improving circumstances for its inhabitants. Significant development funds have been allocated for infrastructure projects by the Department for International Development and the European Union (see paras. 25 and 29 below).

17. The private economy of Pitcairn depends on gardening and trading, manufacturing and the sale of carvings, basket work and other handicrafts as well as the export of dried fruit, honey and honey products. Bartering, mainly with passing ships, is an important part of the economy. The fertile soil of the valleys produces a wide variety of fruits and vegetables, including breadfruit, citrus, sugar cane, watermelons, bananas, yams and beans. Fish is the main source of protein in the Islanders' diet. Pitcairn exports fruits, vegetables and handicrafts and imports fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs.

18. The Territory also exports honey, which has been found by the New Zealand Ministry of Agriculture and Forestry to be an exceptionally pure product. The

isolation of Pitcairn is said to work to the advantage of beekeepers; the bees already brought in 1978 and 1992 are certified pure and disease-free. Strict laws on the island prohibit bringing in any outside honey or used beekeeping supplies. The honey business is a labour-intensive operation, as honey is poured by hand into 250-gram bottles for export. It is estimated that about 3,000 bottles a year can be produced. Pitcairn has begun to develop a dehydrated fruit industry; it exports dried bananas, mangoes and pineapples. It is hoped that an increase in Pitcairn's food export business will add substantially to the Territory's economy. Pitcairn's products are sold in New Zealand, Japan and the United States of America and a Pitcairn Island Producers' Cooperative has been established to handle marketing. Although there is no taxation in the Territory, each person between 15 and 65 years of age is required to perform public work each month in lieu of taxation.

19. The uninhabited island of Henderson, designated as a World Heritage Site by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 1988, is the largest of the group and the most productive of the three satellite islands. Pitcairners usually travel there once a year, staying a few days to collect a year's supply of miro wood, which they use to produce their carvings, and to undertake layering of young miro branches in an effort to ensure a sustainable crop for years to come. The journey by longboat may take about 14 hours each way, depending on weather conditions. The Islanders also make the voyage to Oeno, known as their "holiday island", once a year for a week of fishing and gathering coconuts and shells. Traditionally, the fish caught on these expeditions is shared equally among the families in the Territory.

20. A number of Pitcairn items are available directly from Pitcairn through the Internet. Two websites sell Pitcairn products, including wood carvings, woven baskets, jewellery, honey, dried fruit, painted leaves and other items. When paying for orders by cheque, customers are advised to leave their cheques undated because of the long time it takes to process them. Customers must allow up to six months or more for delivery.

21. Internet users worldwide can acquire a ".pn" suffix that is permanently awarded to Pitcairn. The fees for the acquisition of a ".pn" domain are 200 United States dollars (US$) for the first registration, which covers two years, and US$ 100 for the annual renewal. Information for Internet users wishing to acquire the ".pn" domain is available through the official website of the Government of Pitcairn.

22. Land was traditionally held under a system of family ownership, based on the original division of the island by the mutineers and subsequently modified following the return of some Pitcairn Islanders from Norfolk Island in 1859. Land legislation enacted in 1967 provided for the formal administration of the estates of deceased landowners. While it also sought to rationalize the customary land tenure system, it was largely ineffective in this respect and by the late 1970s, owing mainly to emigration, most of Pitcairn was owned by Pitcairn Islanders who no longer lived on the island. Legislation enacted in 2000 is intended to ensure that every Pitcairn Islander is entitled to an allocation of house, garden, orchard and forestry land "sufficient to meet their needs" for as long as they live on Pitcairn. An annual land tax payable on all land held by non-residents of the Territory, or on land held by residents "in excess of his or her reasonable needs", is aimed at ensuring that sufficient land is available for reallocation through the Land Court, upon application. Only Pitcairn Islanders by birth or naturalization, their children or

grandchildren (having reached the age of 18 years) are eligible to apply for an allocation. They must be resident at the time of application and must intend to remain so. This legislation has not yet been put into effect.

23. A cooperative store, established in 1967, is open three times a week for a short period. Basic food commodities are obtainable when supplies are available. Flour, eggs, meat and butter, which must be imported from New Zealand, are available only if ordered several months in advance.

24. Diesel-driven generators provide 240-volt electric power for approximately four hours each evening and for two hours each morning. Islanders use the radio to communicate on the island. For many years, ham radio communications were the mainstay of Pitcairn's contact with the outside world, but nowadays overseas communications are maintained through surface mail, satellite phone and the Internet. The Internet was introduced to the island in 2002 and was upgraded in 2004 to provide broader bandwidth. While live television has not yet reached the island, videotapes are very popular.

25. According to information provided by the administering Power, the British Government worked with the Pitcairn Island Government throughout 2003 to prepare the planning framework for the release of money from the European Union's European Development Fund. Through the Development Fund, NZ$ 4.26 million (US$ 3.1 million) was recently made available for transport and communications development on Pitcairn.

26. Individuals wishing to visit Pitcairn must first obtain a licence to land and reside there from the Office of the Commissioner for Pitcairn Island in New Zealand. Licences are issued for six months and may be renewed for further similar periods by the Governor. The Island Mayor, subject to the direction of the Governor, is empowered to grant access ashore to crew members or passengers of any visiting vessel.

27. Access to Pitcairn is possible only by sea, usually by container vessels plying between New Zealand and the United Kingdom or from the eastern seaboard of the United States or the Caribbean, via the Panama Canal. A number of cruise ships also call at Pitcairn. Charter boats from Mangareva in French Polynesia are increasingly being given access to the island.

28. There are no hotels or guest houses on Pitcairn, but accommodation for visitors may be arranged through prior application to the Island Mayor with one of the local families.

29. Until 1964, there were no vehicles on the island. Four-wheeled motorbikes (quadbikes) are now a common mode of transport, as all roads are unpaved. Following feasibility studies undertaken in 2003, the British Government announced that 1.9 million pounds sterling (NZ$ 5.3 million) had been made available for engineering and repair works on Pitcairn. Key projects include upgrading and sealing the "Hill of Difficulty", which leads from the island landing at Bounty Bay to Adamstown, and repair work to the jetty and slipway from which the island's longboats are launched. Engineers were on the island in late November 2004 and heavy machinery was due to arrive in late February 2005 with construction work on the Hill of Difficulty, slipway and jetty expected to begin shortly after. At present, the road, which is prone to washouts owing to the frequent storms that sweep over the island, must be repaired constantly.

30. The British Government has undertaken a programme of construction on the island. New buildings include a six-bedroom house, a warehouse and a prison facility. The government lodge, schoolhouse and the hostel, where the Governor's representative lives, have all been renovated.

IV. Social and educational conditions

31. The population of the Territory is self-employed, but allowances and wages are paid to members of the community who participate in local government activities or perform communal services. Public work, which is required by law of all men and women between 15 and 65 years of age, is partly a relic of the society created by the mutineers and partly a necessity born of the basically tax-free economy. The most essential of the traditional public duties are concerned with Bounty Bay and the maintenance of the public boats. Installations in the Bay are provided mainly from general revenue and grants from the United Kingdom. The only jobs in the Territory are government posts, which are normally reserved for permanent residents of Pitcairn. There are no banking facilities, but undated personal cheques and traveller's cheques may be cashed at the Island Secretary's office.

32. Education is free and compulsory for all children between 5 and 15 years of age. The school is operated and financed by the Government. Instruction is in English and is based on the New Zealand standard curriculum. The Education Officer, who is also the editor of the *Pitcairn Miscellany*, the Territory's only newspaper, is a trained teacher recruited from New Zealand, usually for a one-year term. According to the administering Power, four students were enrolled in school in 2004. Post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Overseas secondary education is encouraged by the grant of bursaries and a number of students have received secondary education in New Zealand at the expense of the Government of Pitcairn.

33. Some Pitcairn Islanders are members of the Seventh-Day Adventist Church, which was established in the Territory over a century ago and is the only church on the island. The Church is run by the church board and the resident pastor.

34. The Pitcairn Island Health Centre, completed in 1997, was funded by the United Kingdom Government Overseas Development Administration. It has an examination room, a dental clinic, an X-ray room and a two-bed ward for overnight patients. A general practitioner, recruited from New Zealand, is stationed on the island on a three-month rotation, assisted by an assistant nurse and a local dental officer, who also acts as an X-ray technician. According to information provided by the administering Power, the Government has also recently funded a social welfare programme, which ensures the presence of two social workers on the island at all times.

35. Pitcairn Island has a museum, which displays a number of artefacts and items, some of which have been donated and loaned by people from all over the world. Artefacts on display include stone tools made by Polynesians prior to the arrival of the mutineers. A new museum building is under construction, following a grant from the Government of the United Kingdom.

36. According to the administering Power, there is ongoing public concern over allegations of serious sexual offences against young persons on Pitcairn, including numerous criminal charges of rape and indecent assault. At trials held on the island between September and November 2004, six men were found guilty on a number of counts. Proceedings are currently adjourned pending hearings of legal arguments on preliminary issues and appeals to the Privy Council.

37. The situation has been viewed with concern by the islanders, since, among other things, it takes four men to handle the longboats, which take passengers to and from the island. According to the administering Power, three of the men who received custodial sentences are able-bodied men who can assist in the handling of the longboats. In addition, prison regulations allow prisoners on the island to work outside the prison under supervision and, in certain circumstances, to be temporarily released for employment. According to information provided by the administering Power, this will be a matter for the prison authorities to decide upon.

V. Future status of the Territory

A. Position of the territorial Government

38. The representative of the Island Mayor participated, as an expert, in the Pacific regional seminar on decolonization, held at Madang, Papua New Guinea, from 18 to 20 May 2004. According to the representative, in the past few months the people of Pitcairn had perceived a marked and positive shift in the administering Power's attitude towards the Territory. The unparalleled and exclusive attention given to the Pitcairn judicial system since 1999 had resulted in a strong feeling of mistrust, self-doubt and helplessness within the island community. He said that the ongoing criminal proceedings had had a profoundly damaging effect on the Pitcairn community. The representative discussed the challenge to British sovereignty presented by the defence counsel in the Pitcairn Supreme Court, in which counsel had argued that Pitcairn was independent and not subject to British law, and provided a summary of the 66-page judgement. The representative noted that there had been renewed efforts and resources applied to other key sectors of Pitcairn, including the economy, telecommunications and health sectors, by the administering Power, which had gone some way towards addressing the imbalance, but more work was required before the community's confidence could be fully restored and its long-term security assured.

39. The representative read extracts from a report, dated 9 May 2004, by the Commissioner for Pitcairn to the Island Council, illustrating the range of planning and work currently under way to benefit the Pitcairn community. With regard to shortfalls in revenue, efforts were being made, in consultation with the Island Council, to focus on development initiatives within a suggested time frame of three years. One planned investment was to boost honey production; another was an interactive website, commissioned to promote the sale of postage stamps, coins, curios and the *Pitcairn Miscellany*. Discussions had also been held with tour operators in the Falkland Islands (Malvinas), who run a successful ecotourism and adventure tourism operation. Lastly, a Department for International Development-sponsored report had been commissioned to establish the potential of Pitcairn's fish and mineral resources within its exclusive economic zone.

40. The representative also noted that communication between Pitcairn and the Pitcairn Office (formerly the Pitcairn Island Administration Office) in Auckland, the Governor's Office in Wellington and the Foreign Commonwealth Office in London had improved. He welcomed this development. He added that, in the absence of an island civil service, documentation of policies and procedures in plain English would assist the Island Council in conducting local government business more effectively and efficiently.

41. The representative pointed out various other issues, including that a doctor, rotated every three months, was now resident on the island and that medical equipment was being upgraded. He noted that an upgrading of Pitcairn's power generator had commenced, that an investigation into wind-generated power, commissioned by the Department for International Development, was under way and that a prototype installation might follow shortly. The representative also announced that the Internet bandwidth was about to increase and that homes on the islands had enjoyed free Internet access since April 2004. It was hoped that an affordable phone service would follow. Lastly, he noted that planning for an airstrip was at an advanced stage.

42. With regard to self-determination, the representative reiterated that the people of Pitcairn did not fully understand all the possibilities or the significance of the various self-determination options that might be available to them. The attention demanded by the new projects mentioned above had also served as a diversion. Knowing that Pitcairn's constitutional review had been deferred until after 2006, he added that it seemed logical to precede this process with discussions on self-determination. To that end, he said that Pitcairn would gain maximum benefit in understanding its political future from a United Nations visiting mission. He added that Pitcairn also remained eager to develop, with the Special Committee and the Government of the United Kingdom, a work programme in accordance with the Committee's proposal of 2000 (see A/AC.109/2001/2).

B. Position of the administering Power

43. In his statement at the 3rd meeting of the Fourth Committee, on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom said that his Government again welcomed the opportunity, as administering Power for 10 of the 16 Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it had last met.

44. The representative stated that the partnership between the United Kingdom and its overseas territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council held in London in September 2004, which had been chaired by Bill Rammell, Minister for the Overseas Territories, provided a forum for dialogue between the representatives of the Territories and the United Kingdom Government. The meeting in 2004 presented an opportunity for discussion on the relationship between the United Kingdom and the Territories, constitutional modernization issues, sustainable development, including good governance and environmental matters, and other issues relating to the United Kingdom's international obligations.

45. The representative stated that Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, over the past year. The visits had enabled him to meet a broad range of people in the two Territories and to get a better, first-hand knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own territories.

46. The United Kingdom, he pointed out, welcomed the progress that was being made in the constitutional review process. Officials of the Government had held useful and productive discussions over the past year with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena, a draft constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

47. Conscious of the limited resources in a number of the territories, the United Kingdom Government was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification to the reform of legislation governing child and family welfare and a study on alternatives to custodial sentencing.

48. He recalled that, in 2003, the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the Overseas Territories Environment Charters, signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects in 2004 and 2005, of which three were multiterritory initiatives. These included habitat restoration, surveys of natural living resources and capacity-building for both government and civil society institutions.

49. Regrettably the Caribbean had again suffered badly from hurricanes and, in the context of the Territories, he mentioned the devastation caused by hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered quite extensive damage in part of the Territory a few weeks earlier.

50. In response to requests from some Overseas Territories for help in accessing economic, trade and development assistance of the European Commission, an official with responsibility for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office's Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the decision of the Overseas Association of the European Union-Overseas Countries and Territories of November 2001.

51. The United Kingdom continued its informal cooperation with the Special Committee. In May 2004, a representative of the Government attended a seminar of the Special Committee in Papua New Guinea at which he presented a paper on

constitutional developments in the United Kingdom Territories. Perhaps the most positive recent development was the proposal for a visit to Bermuda with a view to considering movement towards that Territory's delisting. He concluded by saying that the secretariat was directly in touch with Bermuda on preparing for this.

C. Consideration by the General Assembly

52. On 10 December 2004, the General Assembly adopted, without a vote, resolutions 59/134 A and B. Section VIII of resolution 59/134 B is specifically devoted to Pitcairn and states that the General Assembly:

> "*Taking into account* the unique nature of Pitcairn in terms of population and area,
>
> "*Welcoming* the participation of a representative of the Mayor of Pitcairn in the Pacific regional seminar, held in Madang, Papua New Guinea, from 18 to 20 May 2004, and taking note of the positive developments in the Territory,
>
> "*Requests* the administering Power to continue its assistance for the improvement of the economic, social, educational and other conditions of the population of the Territory and to continue its discussions with the representatives of Pitcairn on how best to support its economic security".

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland, under Article 73 *e* of the Charter of the United Nations, and from published sources.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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I. General[1]

1. Gibraltar is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the United Kingdom of Great Britain and Northern Ireland, the area of Gibraltar is 5.86 square kilometres, and according to Spain it is 4.8 square kilometres. In 2004, Gibraltar observed the anniversary of 300 years under British rule.

2. The latest census of Gibraltar, taken on 12 November 2001, assessed the Territory's civilian population at 27,495, of which 22,882 were Gibraltarians, 2,627 other British subjects, 961 Moroccans and 1,025 of other nationalities. According to the administering Power, the population of Gibraltar in 2003 was 28,605, with 23,069 Gibraltarians, 3,270 other British subjects and 2,266 of other nationalities.

II. Political developments

A. General

3. The 1969 Constitution guarantees basic civil and political rights and attributes. It assigns responsibility for local matters to a local government. The United Kingdom, however, retains power over matters of defence, external affairs and internal security. The Governor, appointed by the sovereign of the United Kingdom, retains the power to rescind laws passed by the legislature. Furthermore, the Constitution reserves for the sovereign full power to make laws from time to time for the peace, order and good government of Gibraltar (including, without prejudice to the generality of the foregoing, laws amending or revoking that Constitution). A new Governor, Sir Francis Richard, replaced outgoing Governor David Durie in May 2003. A detailed discussion about the 1969 Constitution, including the positions of Spain and the United Kingdom, is contained in the report of the Special Committee to the General Assembly at its twenty-fourth session.[2]

4. Legislative authority is vested in a single House of Assembly consisting of 15 elected members. Executive authority is vested in a Council, which is composed of the Governor, four ex officio members, the Chief Minister and four elected members, and which assists the Governor in an advisory capacity. The Council of Ministers is made up of the Chief Minister, members of the House of Assembly designated by the Chief Minister and some elected members. The Council of Ministers, which acts as a cabinet, holds responsibility for specific domestic matters, with the Governor retaining the prerogative to intervene in support of his responsibilities for defence and external affairs.

5. The legal system of Gibraltar is based on the common law and statute law of England. Gibraltar retains its own court system, which includes lower courts (Court of First Instance, Coroner's Court, Magistrate's Court), a Court of Appeals and a Supreme Court. The Supreme Court has unlimited jurisdiction to hear and determine any civil or criminal proceedings. At present, it consists of the Chief Justice and an additional judge appointed by the Governor.

6. The United Kingdom's White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories",[3] presented to Parliament in March 1999, spoke of each Territory's need for a constitutional framework to suit its own circumstances and stated that suggestions from Overseas Territory Governments for specific proposals for constitutional change would be considered carefully. In June 1999, Gibraltar's House of Assembly set up a Select Committee on constitutional reform and on 27 February 2002 formally adopted a report on the matter. The Chief Minister said that the object of the exercise had been to achieve a constitution that "maximized self-government", in the language of the United Nations decolonization proposals, and modernized domestic institutions to reflect that. (See A/AC.109/2002/11, para. 6, for details of the proposed constitution, as reported by the local media.)

7. The Chief Minister of Gibraltar submitted the constitutional reform proposals formally to the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom on 22 December 2003 and suggested that the two meet informally to discuss the proposals and the way forward.[4] The Secretary of State has acknowledged the importance of those proposals to Gibraltar and said that they would receive the most careful consideration. Preliminary talks were held between the Secretary for Foreign Affairs, Jack Straw, and the Chief Minister of Gibraltar, Peter Caruana, in May 2004 in order to discuss matters relating to the constitutional reform and how to move the process forward. The first meeting to discuss constitutional reform proposals for Gibraltar took place on 1 December 2004.

B. General elections

8. The last general elections in Gibraltar were held on 27 November 2003. The incumbent Gibraltar Social Democratic Party obtained 51 per cent of the vote, followed by the Gibraltar Socialist Labour Party, which, in alliance with the Liberal Party, obtained 40 per cent of the vote. Peter Caruana, leader of the Gibraltar Social Democratic Party, was reappointed Chief Minister of Gibraltar. Joseph Bossano continues as Leader of the Opposition.

C. Recent developments

9. The British Overseas Territories Bill, which confers British citizenship on British Overseas Territories citizens, completed its parliamentary process in 2001-2002. It received Royal Assent on 26 February 2002 and became the British Overseas Territories Act 2002 (see A/AC.109/2002/2/Add.1). Under the British Nationality Act of 1981, British Overseas Territories citizens from Gibraltar are, upon application, entitled to be registered as British citizens. Accordingly, many Gibraltarians already possess British citizenship and thus have the right of abode in the United Kingdom.[5] In July 2001, the Chief Minister of Gibraltar stated that for those Gibraltarians who already had or might in future want British citizenship, as opposed to British Overseas Territories citizenship, the new Bill represented a great improvement, as it gave "first class" British citizenship, without the need to apply to register, and in such a way as to be automatically passed on to children and future generations.[6]

10. Although Gibraltar's military installations and personnel have been scaled down considerably in the past 15 years, the Strategic Defence Review launched by the United Kingdom Government in May 1997 placed renewed emphasis on the rapid deployment of British forces in response to crisis and pointed out that Gibraltar's facilities provided an independent forward operating base for British forces in the Mediterranean and served as a transit base for vessels en route to the Middle East and elsewhere. According to a report published in November 2002 by the Foreign Affairs Committee of the House of Commons, the Territory's strategic importance remains undiminished in the twenty-first century. Some 440 British military personnel are based in Gibraltar.[7]

11. As mentioned in the 2004 working paper (A/AC.109/2004/7), the talks envisaged in the framework of the Brussels Process did not continue during 2003 (see paras. 52-54 below). Instead, in December 2004, in a joint communiqué issued by Spain, the United Kingdom and Gibraltar, it was announced that a forum for dialogue about Gibraltar had been established, separate from the Brussels Process, with Gibraltar participating in its own right. The forum would have an open agenda. The positions of the administering Power, the territorial Government and the Government of Spain regarding political developments in 2003 are reflected in section VI of the present report.

III. Economic conditions

A. General

12. Gibraltar has no known natural resources and lacks agricultural land. In the past the economy was largely dependent on Ministry of Defence expenditures, but with the downsizing of the military base, the economy has become focused on tourism and the provision of financial services, such as banking, insurance, shipping and portfolio management. The currency of Gibraltar is the pound sterling. According to the administering Power, the gross domestic product (GDP) of Gibraltar in 1999/00 was £433.6 million, and per capita GDP was £15,863. Inflation in October 2003 was running at an annual rate of 3 per cent. In June 2004, the Chief Minister stated at the Parliament's budget session that Gibraltar's economy, despite the external challenges it faced, was in robust shape and continued to grow at healthy rates. In 2001/02, the GDP had grown from £433.6 million to £470.2 million, representing an annual economic growth rate of 8.4 per cent in money terms and 7.8 per cent in real terms after deducting inflation. Subsequently, in a speech on the economy made on 27 January 2005, the Chief Minister pointed out that, as of March 2003, GDP had grown to £507 million, an increase of 7.9 per cent.

B. Public finance

13. According to the administering Power, departmental revenue credited to the Consolidated Fund for the year ending on 31 March 2004 totalled £163.7 million and departmental expenditure amounted to £139 million. The main sources of Consolidated Fund revenues were income tax, which totalled £71.1 million; import duties, which totalled £28 million; and general rates, which totalled £12.7 million.

The main Consolidated Fund areas of expenditure for the period April 2003 to March 2004 were as follows: education and culture, £19.9 million; electricity, £8.1 million; social security and social services, £13.6 million; technical services, £12 million; health, £14.4 million; police, £8.6 million; tourism and transport, £7.8 million; housing, building and works, £8.8 million; secretariat, £13 million; environment, £6 million; treasury, £5 million; customs, £3.8 million; fire service, £2.8 million; trade, industry and communications, £2.7 million; post office £2.1 million; and employment and consumer affairs, £1.5 million.

14. Income tax is charged for the year of assessment running from 1 July in one calendar year to 30 June in the next on the basis of the income of the preceding year, except for income from employment or pension, which is charged on the basis of the income for that current year. The income tax rates applicable to individuals resident in Gibraltar range from 17 per cent on the first £4,000 of taxable income to 45 per cent after the first £15,000 (see A/AC.109/2001/10, para. 16, for details of income tax and exemptions). In his 27 January 2005 speech on the economy, the Chief Minister stated that Government revenue was at an all time record level, which had allowed investment of more than £150 million over eight years in publicly funded capital projects. This in turn had made it possible to increase recurrent public spending in public services. Government reserves were forecast to stand at £35 million as at March 2005.

C. Trade

15. As reported in the previous working paper (A/AC.109/2004/7), figures for 2002 show that total imports amounted to £609.7 million (up from £590.7 million in 2001) and total exports to £428.7 million (up from £362 million in 2001). In 2003, total imports amounted to £715.5 million, while total exports stood at £508.5 million. In 2004, the administering Power reported that nearly 28 per cent of Gibraltar's non-fuel imports originated from the United Kingdom. Other sources of imports included the Netherlands, Japan and Spain. Exports of goods of local origin were negligible. Exports consisted mainly of re-exports of petroleum and petroleum products supplied to ships. Import controls did not change during the period under review. Other than a few items of essential foodstuffs, gold bullion and gold coins, petrol, caravans, vessels, endangered species, fireworks and cigarettes, all goods can be imported under the Open General Licence.

D. Banking and finance

16. Gibraltar's international financial services sector stems from the enactment of the Companies (Taxation and Concessions) Ordinance in 1967, which made provision for a special tax regime for offshore companies. In 1997, the Gibraltar Finance Centre was established within the Department of Trade and Industry as the focal point for all financial activities in the Territory. At the end of 2004, there were 18 banks authorized to conduct banking business in Gibraltar. As at 31 December 2003, there were also some 8,464 fully paid companies (down from 8,620 in December 2002) registered under the Companies (Taxation and Concession) Ordinance. These companies pay a fixed annual tax, irrespective of profits made and whether or not their profits are received in the Territory.

17. For a summary of developments regarding European Union directives and their implementation in Gibraltar, see the 2004 working paper prepared by the Secretariat (A/AC.109/2004/7, paras. 17 and 18).

18. A report issued in June 2000 by the Organization for Economic Cooperation and Development (OECD) included Gibraltar in a list of 35 jurisdictions that met the technical criteria for being tax havens.[8] On 28 February 2002, the Gibraltar Government agreed in writing to implement the principles required by OECD. On 14 March 2002, OECD announced that Gibraltar had made commitments to transparency and to implement an effective exchange of tax information with OECD countries by 31 December 2005, and would thus be removed from the list of uncooperative tax havens.[9] The detailed list of commitments made by Gibraltar in order to comply with OECD requirements was published in both the Gibraltarian and the Spanish media.[10]

19. In January 2005, the European Union's executive arm ordered the United Kingdom to phase out a tax break for offshore companies based in Gibraltar after finding the arrangement not in accordance with European Union competition rules. According to press sources, the European Commission had stated that, after extensive negotiations, it was giving the United Kingdom Government a month to accept its recommendations or face a State aid investigation that could lead to legal action. Under the "Exempt Company" scheme offered by the authorities in Gibraltar, more than 8,000 offshore firms escape having to pay income tax on their earnings. Instead, they have to pay a fixed annual tax set at a nominal amount of £225 to £300. Companies qualify if they register in Gibraltar but do not conduct any business there or have any Gibraltarian shareholders. Other firms trading in the Territory must pay a standard 35 per cent tax on their profits. The European Commission said in a statement that such advantage is clearly selective, is financed from State resources and is liable to distort competition. The European Commission also pointed out that the regime did not satisfy the criteria set out in European Union law under which State aid may be authorized.

20. Under this proposal, the number of companies benefiting from the scheme would be capped at current levels and no new entrants would be allowed from July 2006. The tax break would then be eliminated at the end of 2010.[11] Referring to these developments, the Chief Minister of Gibraltar, in a speech on the economy, mentioned that the full European Union Commission had ratified the agreement negotiated by the Gibraltar Government in relation to the continuation of tax exempt status on agreed terms. The Chief Minister pointed out that while the agreement did not contain everything that Gibraltar had wanted, it delivered sufficient certainty and stability.[12]

E. Transportation, communications and utilities

21. According to the administering Power, arrivals in Gibraltar are by air, primarily from the United Kingdom; by sea, comprising ferry arrivals from Morocco and day-trip arrivals from cruise ships; and by land, comprising mainly day visitors arriving from Spain. Passenger arrivals for 2004 were as follows: air arrivals, 157,016; ferry arrivals, 24,833; cruise visitors, 162,780; and visitor arrivals by land, 7,311,555.

22. Regarding road transportation in and out of Gibraltar, in recent years the border issue has been raised by the United Kingdom in contacts with the Spanish authorities (see A/AC.109/2001/10, para. 22, A/AC.109/2002/11, para. 20 and A/AC.109/2004/7, para. 20).

23. There are regular airline services linking Gibraltar to the United Kingdom and Morocco. In recent years, the issue of Gibraltar's airport was reported to be holding up European Commission aviation agreements on a "single European sky".[13] For a summary of related developments see paragraph 21 of the previous working paper. On 11 December 2003, the Joint Conciliation Committee of the European Parliament and the Council approved the joint text of the framework regulation for the creation of the Single European Sky. Paragraph 5 of article 1 of that instrument suspends application of the regulation and certain measures for the airport of Gibraltar until the arrangements included in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 come into operation. The Governments of Spain and the United Kingdom are expected to inform the Council of the date of entry into operation.[14] Following talks at the ministerial level between Spain and the United Kingdom in October 2004, it was agreed by both sides and by Gibraltar that the new forum for dialogue on Gibraltar (see paras. 52-55 below) would explore the possibilities to reach an agreement on the use of the Gibraltar airport under a formula acceptable to all parties.

24. As the Strait of Gibraltar is a principal water route between the Mediterranean Sea and the rest of the world, Gibraltar is used as a port by many long-distance liners and cargo ships.

25. For developments relating to telephone communications and the international dialling code for Gibraltar, see the 2004 working paper A/AC.109/2004/7, paragraphs 23 and 24.

F. Tourism

26. The total number of visitors that arrived in Gibraltar in 2003 was 7.8 million, compared to 7.6 million in 2002. There were 61,743 hotel arrivals in 2003, an increase over 2002, in which 53,417 hotel arrivals were registered.

IV. Social conditions

A. Labour

27. According to the administering Power, the 2003 employment survey placed the number of employees in Gibraltar at approximately 15,419, compared to 14,266 in 2002. In his statement at the budget session in June 2004, the Chief Minister pointed out that some 600 to 700 additional new jobs were created in 2003, an increase of nearly 5 per cent. At the end of 2004, the distribution of persons employed by the five largest sectors was as follows: banking and finance, 2,706; public administration and defence, 2,952; retail trade, 1,873; building and construction, 1,665; and medical and health services, 1,223. In his statement to Parliament, the Chief Minister stated that the number of jobs in the economy was at an all time high

and still growing, while the unemployment rate was at a record low, at less than 2 per cent.

B. Human rights

28. The Gibraltar (Constitution) Order of 1969 guarantees the protection of the fundamental rights and freedoms of the individual and the maintenance of a Supreme Court with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with such jurisdiction and powers as are conferred upon it by the Constitution of Gibraltar or any other law. Several major international human rights instruments have been extended to the Territory by the administering Power (see A/AC.109/2001/10, para. 33).

29. The issues concerning the right of the inhabitants of Gibraltar to vote in European parliamentary elections were discussed previously in the 2003 and 2004 working papers (A/AC.109/2003/3, para. 27, and A/AC.109/2004/7, para. 28).

C. Social security and welfare

30. For details of the contributory schemes of the Social Security system, see A/AC.109/2001/10, paragraph 40.

D. Public health

31. The Gibraltar Health Authority is the organization responsible for providing health care in Gibraltar. It operates a group practice medical contributory scheme and gives registered persons access to free medical treatment (for a description of the available medical facilities, see A/AC.109/2001/10, paras. 42 and 43). The expenditure of the Gibraltar Health Authority for the period from 1 April 2003 to 31 March 2004 was £42.39 million. The new 200-bed St. Bernard's Hospital at Europort, representing an investment of £55 million, opened in February 2005. The Minister for Health, Ernest Britto, said that the new state-of-the-art hospital heralded a new era in health care in Gibraltar.[15]

E. Public education

32. The Education Department continues to be in charge of public education in Gibraltar. Expenditure on education as at the end of March 2004 was £19.70 million. A programme of major improvements to Government schools, at a cost of £11 million was completed in 2004. As at the end of 2003, there was a total of 5,411 children enrolled in Government schools, including Government nurseries. There is free compulsory education for all entitled children between the ages of 5 and 15. There are 13 primary schools — 11 Government-run, 1 private and 1 services school — with a total of 3,723 students enrolled. There were also four single-sex secondary schools — two Government-run schools, with a total of 2,413 students, and two private schools. There is also a technical and vocational college with 371 students enrolled. The number of teachers employed in Gibraltar during the 2003/04 academic year was 381. All tertiary education is sponsored, and

students satisfying entry criteria are entitled to scholarships to study in the United Kingdom. In 2004, 504 Gibraltarians were reportedly pursuing higher education studies in the United Kingdom.

F. Crime and crime prevention

33. Law enforcement in the Territory is the responsibility of the Royal Gibraltar Police. According to data provided by the administering Power, from January to December 2004, 1,760 persons were arrested for minor offences, such as those related to liquor, disorderly conduct and immigration violations. During the same period, 2,060 persons were arrested for serious crimes, such as those related to violence against the person, sexual offences, burglary and drugs.

V. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

34. Representatives of Spain and the United Kingdom attended the Pacific regional seminar on advancing the decolonization process in the Pacific region, held at Madang, Papua New Guinea, from 18 to 20 May 2004.

35. The Special Committee considered the question of Gibraltar at its 4th meeting, on 8 June 2004 (see A/AC.109/2004/SR.4), and had before it a working paper concerning the Territory (A/AC.109/2004/7). At the same meeting, the Chief Minister of Gibraltar, Peter Caruana, made a statement and replied to questions posed to him by the representative of Cuba (see A/AC.109/2004/SR.4). At the same meeting, a statement was made by Joseph Bossano, Leader of the Opposition in Gibraltar. Also at the 4th meeting, the Committee heard a statement by the representative of Spain. On the proposal of the Chairman, the Committee decided to continue consideration of the question at its next session and to transmit the relevant documentation to the General Assembly.

B. Special Political and Decolonization Committee (Fourth Committee)

36. At its 4th meeting, on 6 October 2004 (see A/C.4/59/SR.4), the Fourth Committee heard a statement by the Chief Minister of Gibraltar, Peter Caruana (see paras. 45-46 below), and a statement by petitioner Joseph Bossano, Leader of the Opposition in Gibraltar. At the same meeting, the Committee heard a statement by the representative of Spain (see paras. 49-51 below). At the same meeting, the representative of the United Kingdom made a statement in exercise of the right of reply. At its 8th meeting, on 12 October 2004, the Committee adopted a draft decision submitted by the Chairman on the question of Gibraltar (A/C.4/59/L.6) without a vote.

C. Action by the General Assembly

37. At its 71st plenary meeting, on 10 December 2004 (see A/59/PV.71), the General Assembly, on the recommendation of the Fourth Committee, adopted decision 59/519 without a vote. The decision reads as follows:

> "The General Assembly, recalling its decision 58/526 of 9 December 2003, and recalling at the same time that the statement agreed to by the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland at Brussels on 27 November 1984 stipulates, inter alia, the following:
>
> > 'The establishment of a negotiating process aimed at overcoming all the differences between them over Gibraltar and at promoting cooperation on a mutually beneficial basis on economic, cultural, touristic, aviation, military and environmental matters. Both sides accept that the issues of sovereignty will be discussed in that process. The British Government will fully maintain its commitment to honour the wishes of the people of Gibraltar as set out in the preamble of the 1969 Constitution',
>
> urges both Governments, while listening to the interests and aspirations of Gibraltar, to reach in the spirit of that statement a definitive solution to the question of Gibraltar, in the light of relevant resolutions of the General Assembly and in the spirit of the Charter of the United Nations."

VI. Future status of the Territory

A. Position of the administering Power

38. In his statement at the 3rd meeting of the Fourth Committee, on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom made a statement regarding developments in the Non-Self-Governing Territories under its administration. He stated that the partnership between the United Kingdom and its Overseas Territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2004. The Council, which had been chaired by Bill Rammell MP, Minister for the Overseas Territories, was the forum for dialogue between democratically elected Chief Ministers and their equivalents from the Territories and with United Kingdom Government Ministers. The meeting in 2004 again gave the opportunity for discussion on the relationship between the United Kingdom and the Territories, on constitutional modernization issues, on sustainable development, including good governance and environmental matters, and on other issues relating to the United Kingdom's international obligations.

39. The United Kingdom, the representative pointed out, welcomed the progress that was being made in the constitutional review process. Constitutional reform proposals for Gibraltar had been submitted in December 2003. Dates had not yet been set for formal talks.[16]

40. Conscious of the limited resources in a number of the Territories, the United Kingdom Government was continuing to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification, to the reform of legislation

governing child and family welfare, to a study on the alternatives to custodial sentencing.

41. He recalled that in 2003, the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the Environment Charters for the Overseas Territories, signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects in 2004-2005, of which three were multi-Territory initiatives. These included habitat restoration, surveys of natural living resources and capacity-building for both Government and civil society institutions.

42. The United Kingdom representative mentioned that, in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official with responsibility for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office Overseas Territories Department. He continued to work with several of the Territories in identifying and pursuing Commission development aid as provided for under the European Union-Overseas Countries and Territories Overseas Association Decision of November 2001.

43. The representative said that the United Kingdom continued its informal cooperation with the Special Committee of 24. The most recent involvement had been when a United Kingdom representative had attended and presented a paper on constitutional developments in the United Kingdom Territories at the Special Committee seminar in Papua New Guinea in May 2004.

B. Position of the territorial Government

44. During 2004, the Chief Minister of Gibraltar, Peter Caruana, made numerous statements on the status of Gibraltar and the Territory's position with respect to the talks between Spain and the United Kingdom. On 8 June 2004, speaking at the 4th meeting of the Special Committee of 24 on the occasion of its debate on the question of Gibraltar, Mr. Caruana reiterated Gibraltar's call for the Committee to visit Gibraltar to see and judge the facts for itself. He also reiterated Gibraltar's call for the Committee to recommend to the Fourth Committee that, since there was a disagreement between the parties as to the applicable international law principles, the case be referred to the International Court of Justice for an advisory opinion. Gibraltar also called for changing the resolution so that it would reflect a call for the Government of Gibraltar to be present at any talks affecting Gibraltar.

45. On 6 October 2004, speaking at the 4th meeting of the Fourth Committee, the Chief Minister, while reiterating the arguments presented in his speech before the Special Committee of 24, said that the United Nations had repeatedly declared that in the process of decolonization there was no alternative to the principle of self-determination and that it was not properly and correctly arguable that territorial integrity was a relevant principle in the decolonization process. Referring to Spain's argument that, because of its sovereignty claim, the principle of self-determination cannot apply to the decolonization of Gibraltar, Mr. Caruana pointed out that General Assembly resolution 2625 (XXV) of 24 October 1970, entitled "Declaration on Principles of International Law concerning Friendly Relations and Cooperation

among States in accordance with the Charter of the United Nations", was the only explicit declaration by the United Nations on the interrelationship between the principles of self-determination, on the one hand, and territorial integrity, on the other. The proper meaning and effect, and proper application of the principle of territorial integrity in relation to the principle of self-determination was that the principle of self-determination was not available to the peoples of part of an existing country to enable them to secede from it. He said Spain and its Government were not a State or Government representing the people of Gibraltar and had not been so for 300 years and that Gibraltar's self-determination would not disrupt Spain's territorial integrity. Furthermore, Mr. Caruana argued that nowhere in the Charter or in United Nations doctrine or elsewhere in international law was it written that a neighbour's sovereignty claim overrode, let alone extinguished, the inalienable right to self-determination of a colonial people. Concluding, he said that the President of Spain, in his address to the General Assembly, had said that Spain remained willing to negotiate a solution beneficial to the whole region and to listen to the voice of Gibraltar. Mr. Caruana stated that he had welcomed that statement as representing a constructive step in the right direction. He emphasized that Gibraltarians were entitled to be heard and their wishes respected, even by those who did not agree with their position and who had different aspirations in the matter. The future of Gibraltar could be decided only by the people of Gibraltar.

46. Mr. Caruana also pointed out that he had welcomed publicly statements by the Spanish Foreign Minister and the opportunity which the new Spanish Government had offered of dialogue aimed exclusively at issues of local cooperation with no sovereignty implications for either side. He said his Government would engage constructively and amicably in such a process, which coincides with its own long-standing policy to the same effect. Mr. Caruana emphasized that sovereignty was altogether a different matter upon which concessions would not be made and should not be expected as part of this process. He reiterated the request that the Committee's resolution should call for a programme of action in the case of Gibraltar to comprise a visit by the Special Committee on Decolonization to Gibraltar to see and judge the facts for itself. Also, since there was disagreement between the parties as to the applicable international law principles, which was holding back a solution, the case should be referred by the Fourth Committee to the International Court of Justice for an advisory opinion on those principles. Lastly, he said that the Fourth Committee's resolution should be changed to reflect a call for the Government of Gibraltar, on behalf of the people of Gibraltar, to be fully, properly and safely able to be present at any talks affecting Gibraltar.

47. In his New Year message in January 2005, the Chief Minister said that a major political development was the agreement in December between the Governments of the United Kingdom, Spain and Gibraltar to set up a new, trilateral process of dialogue outside the Brussels Process. It was to be dialogue on an open-agenda basis. Gibraltar had its own separate voice and would participate on the same basis as the United Kingdom and Spain. He said all sides looked forward to participating in the dialogue and to seeking such agreements as might be possible which would enhance cooperation, improve cross-border relations and improve the economies, societies and qualities of lives of people on both sides of the border. The only constraint was that the sovereignty of their homeland and their political rights as a people to decide their own future must not be adversely affected or prejudiced in any way. As far as Gibraltar was concerned, the Brussels Agreement was now

totally irrelevant and should be formally abandoned by the United Kingdom and Spain at the earliest opportunity. There was no prospect of Gibraltar's participation in it, nor could there be any question of parallel bilateral talks about sovereignty between the United Kingdom and Spain.

C. Position of the Government of Spain

48. On 21 September 2004, speaking before the General Assembly, the Prime Minister of the Kingdom of Spain, José Luis Rodríguez Zapatero, referred to Gibraltar and stated that every year the General Assembly reiterated its calls to Spain and the United Kingdom to pursue bilateral negotiations in order to reach a definitive solution to the dispute. The Prime Minister said that his country would continue its willingness to negotiate a solution that benefited the region as a whole and to listen to the voice of that Non-Self-Governing Territory.

49. On 6 October 2004, the representative of Spain, speaking at the 4th meeting of the Fourth Committee (see A/C.4/59/SR.4), referred to the statement made by the Prime Minister at the plenary meeting of the General Assembly, urging the Governments of Spain and the United Kingdom to continue their negotiations with the objective of reaching a definitive solution to the problem of Gibraltar. The Spanish representative also referred to the statement by the Minister for Foreign Affairs and Cooperation of Spain, who had presented the general position on the question of Gibraltar.

50. The Minister had spoken in favour of a dispassionate effort to arrive at a comprehensive agreement acceptable to all the parties involved in any way in the dispute. He had likewise stated that the Spanish Government was willing, within the framework of sovereignty negotiations, to facilitate the establishment of close and fruitful cooperation between Gibraltar and the surrounding area, so that the provision of services could be placed on a more rational footing and be mutually beneficial, provided that the economic model of Gibraltar was fully in keeping with European Union norms. The Spanish Government favoured the creation of "virtuous circles" of cooperation, enabling all the parties concerned to collaborate, making concessions and reaping positive benefits on a non-zero-sum basis. The Minister similarly pointed out that the Gibraltar-Campo de Gibraltar region could be among the most economically and technologically developed parts of the Iberian Peninsula because of the considerable advantages offered by its situation. He emphasized that it was a region of considerable economic potential. Over and above economic concerns, the Spanish Government's policy towards Gibraltar needed to include a significant person-to-person dimension, with contacts between civil societies. It was obvious that thorough-going negotiations on sovereignty issues could not go forward satisfactorily in a climate of confrontation, even if only because the Gibraltarians had to be involved in them, through an agreed formula, for them to be able to serve any practical purpose and because Spain wished to build a shared future of social concord in which the people of Gibraltar would feel at home. The Spanish Government wished to devote all the necessary time to this project, seeking to ensure that what united them would prevail over the high feelings roused by what separated them or set them at loggerheads. The representative of Spain pointed out that, while preferring dialogue to pointless confrontation, the Spanish Government would continue to vigorously defend its positions when these are based on reason and justice.

51. The representative of Spain, referring to the suggestion made by some speakers that the General Assembly should request an advisory opinion from the International Court of Justice, said that the matter was not a completely new one. He recalled that on 10 November 1966, the Spanish delegation had made a statement regarding a similar case, made public in London, following a meeting between the Spanish and British authorities, to the effect that the problem of Gibraltar was essentially a political matter and part of the decolonization process. The statement had likewise stressed that all the legal problems raised by Gibraltar, including that of its sovereignty, were part and parcel of its status as a Non-Self-Governing Territory, which the United Nations regarded as the main subject of the negotiation. There would therefore not be much sense in requesting an advisory legal opinion on an eminently political issue which must be settled at the political level and which was precisely what Spain and the United Kingdom were doing in compliance with the annual resolution adopted by the General Assembly. He concluded by saying that to act in any other way would be tantamount to diverting attention from what should be the core concern of the process in which they were engaged.

D. United Kingdom-Spanish negotiations

52. As mentioned in previous working papers, the negotiations between the United Kingdom and Spain on the subject of Gibraltar, relaunched in July 2001 in the framework of the Brussels Process, did not continue during 2003 (see A/AC.109/2003/3, paras. 52-54, and A/AC.109/2004/7, paras. 51-53). However, according to a joint press release by the Spanish Ministry for Foreign Affairs, the British Foreign and Commonwealth Office and the Government of Gibraltar dated 16 December 2004:

> "On 27 October 2004, the British and Spanish Ministers, Jack Straw and Miguel Angel Moratinos, made a joint statement in Madrid, on which the Chief Minister of Gibraltar, Peter Caruana, had been consulted and has separately expressed his agreement. Accordingly and without prejudice to their respective positions, the Governments of Spain and the United Kingdom and Gibraltar now confirm the establishment of a new three-sided forum for dialogue on Gibraltar, separate from the Brussels Process."[17]

53. They agreed that the forum would adopt the following work modalities: (a) the dialogue would be based on an open agenda and consequently, any of the participants would be able to raise any issue relating to or affecting Gibraltar; (b) without prejudice to their constitutional status, including the fact that Gibraltar is not an independent sovereign State, each of the parties would have its own, separate voice and each would participate on the same basis; (c) any decision or agreement reached in the forum would have to be agreed to by each of the three participants. If the three parties wished to take a decision in the forum where formal agreement would properly be between Spain and the United Kingdom, it was understood that the United Kingdom would not agree thereto without the consent of the Government of Gibraltar; (d) the forum would be convened at the ministerial level by the three parties at least once every 12 months. Other meetings would take place at a time and level agreed by the three participants; (e) the forum could establish working groups as needed to discuss specific issues; (f) in its deliberations, the forum would bear in mind the activities of the Comisión mixta de Cooperación y Colaboración established on 18 November 2004 between the Mancomunidad de

Municipios de la Comarca del Campo de Gibraltar and the Government of Gibraltar, to ensure coordination between the work of the forum and the Comisión mixta.

54. The parties undertook that, through the forum and these modalities, they would endeavour to create a constructive atmosphere of mutual confidence and cooperation for the benefit and prosperity of Gibraltar and the region, in particular the Campo de Gibraltar. Also, in order to maintain the viability of the process for all the parties, they agreed to refrain from making public statements which distorted or misrepresented the basis, purpose or modalities of the forum as set out in the communiqué.[18]

55. The first meeting of a Forum working group took place in January 2005 to examine and discuss the pension entitlements of Spanish workers who had worked in Gibraltar.[19] The joint statement of 27 October by the Secretary of State for Foreign and Commonwealth Affairs and the Minister for Foreign Affairs of Spain listed several cooperation measures to facilitate the start of the work of the forum. Those measures included allowing the inclusion of Spanish airports as alternative airports in the flight plans whose final destination is the airport of Gibraltar and the Spanish Government allowing calls at Spanish ports of all pleasure cruise liners having the port of Gibraltar as a previous or subsequent port of call, without restriction. Meetings of the working groups on telecommunications and on the airport of Gibraltar took place in the first quarter of 2005.[20]

E. United Kingdom-Gibraltarian discussions

56. The Government of the United Kingdom has reiterated on several occasions that it remains committed to considering proposals for constitutional change in its Territories. On 26 May 2004, the United Kingdom Foreign Secretary, Jack Straw, met with the Chief Minister of Gibraltar, Peter Caruana, for preliminary talks on the local constitutional reform proposals and on the mechanism for taking the process forward. The first meeting to discuss the reform proposals for Gibraltar took place on 1 December 2004.

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations, in January 2005, as well as from official documents of the Government of Spain and published sources.

[2] *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 23* (A/7623/Rev.1), vol. III, chap. XI, annex, paras. 7-23.

[3] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1, annex.

[4] Government of Gibraltar press release, "Chief Minister's New Year message", 1 January 2003.

[5] British Overseas Territories Bill, Explanatory Notes, House of Lords, 26 June 2000.

[6] Government of Gibraltar press release, 11 July 2002.

[7] United Kingdom Parliament, Foreign Affairs Committee, Eleventh Report on Gibraltar, 5 November 2002.

[8] Organization for Economic Cooperation and Development, *Progress in Identifying and Eliminating Harmful Tax Practices*, June 2000.

[9] Agence France-Presse, 14 March 2002.

[10] *Gibraltar Chronicle* and *El Pais*, 15 March 2002.

[11] Agence France-Presse English Wire, 21 January 2005.

[12] Government of Gibraltar, Chief Minister's speech on the economy-GFSB, 27 January 2005.

[13] Reuters and *El Pais*, 8 March 2001.

[14] European Union, Legislative Acts and Other Instruments, Regulation of the European Parliament and of the Council laying down the framework for the creation of the Single European Sky.

[15] *Gibraltar Chronicle*, 10 February 2005.

[16] Subsequently it was reported that the first round of talks was held in December 2004.

[17] *El Pais*, Madrid, 22 December 2004; Agence France-Presse English Wire, 16 December 2004.

[18] Ibid.

[19] *Gibraltar Chronicle*, Gibraltar, 28 January 2005.

[20] *Panorama, Gibraltar's Online Daily, Gibraltar news*, 3 February 2005.

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British Virgin Islands

Working paper prepared by the Secretariat

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I. Background information

1. The British Virgin Islands[1] are located about 60 miles east of Puerto Rico and 15 miles from the United States Virgin Islands. The Territory comprises a group of 50 islands that form an archipelago with the United States Virgin Islands. Twenty of the islands are inhabited. The capital city, Road Town, is located on the largest island, Tortola. The other major islands are Virgin Gorda, Anegada and Jost Van Dyke.

2. The earliest inhabitants of the British Virgin Islands were the Arawaks and the Caribs. The islands were sighted in 1492 by Christopher Columbus. The Dutch established the first permanent European community on the islands in 1648. In 1666, British planters took control of the islands and the Territory attained the status of a British colony. The planters were granted civil government, constitutional courts, an elected House of Assembly and a partly nominated Legislative Council, which first met in 1772. In 1872, the islands became part of the Federation of the Leeward Islands. In the 1930s and 1940s, British Virgin Islanders demanded greater self-governance, which led to the Territory becoming a separately administered colony in 1956.

3. At the beginning of 2005, the official results of the 2001 census were ready. According to press reports, the population of the British Virgin Islands had grown by 50 per cent over 10 years, to a total of about 24,000. About 45 per cent of the total are British Virgin Islanders. Approximately 83 per cent of the Islanders are of African descent, the remainder being of European or other origin. Immigration accounted for 45.4 per cent of the population growth between 1991 and 2001.

II. Constitutional, political and legal issues

4. The British Virgin Islands is a Non-Self-Governing Territory (British Overseas Territory) under the administration of the United Kingdom of Great Britain and Northern Ireland. The Constitution, formulated with local input, was adopted in 1967 and amended in 1976. The administering Power appoints a Governor with responsibilities for defence, internal security, external affairs, public service and the administration of the courts; the Governor retains legislative powers as necessary to exercise special responsibilities. The Executive Council consists of the Chief Minister (appointed by the Governor from among the elected members of the Legislative Council) who has responsibility for finance, three ministers (appointed by the Governor on the advice of the Chief Minister) and one ex officio member (the Attorney-General). The Governor is the Chairman of the Executive Council and must consult with it in the exercise of his duties. The Legislative Council consists of a Speaker, the Attorney-General as an ex officio member and 13 elected members (9 members from one-member electoral districts and 4 members representing the Territory at large).

5. There are four political parties in the British Virgin Islands: the Virgin Islands Party (VIP); the United Party (UP); the Concerned Citizens' Movement (CCM), which was founded in 1994 as a successor to the Independent People's Movement; and the National Democratic Party (NDP), founded in 1998.[2] General elections must be held at least once every four years. Candidates are elected based on a simple majority. Persons voting must be 18 years of age or over and have "belonger status".

6. In the general election held on 16 June 2003, the National Democratic Party won 8 of the 13 seats on the Legislative Council and subsequently formed the Government. After 17 years in office, the Virgin Islands Party lost power and now forms the opposition. The Chief Minister is Dr. Orlando Smith.

7. The Governor of the British Virgin Islands, Thomas T. Macan, took office in October 2002.

8. The law of the British Virgin Islands is the common law of England and locally enacted legislation. Justice is administered by the Eastern Caribbean Supreme Court, based in Saint Lucia, which consists of two divisions: the High Court of Justice and the Court of Appeal. There are two resident High Court Judges, and a visiting Court of Appeal, which comprises the Chief Justice and two judges of appeal and sits twice a year in the Territory. There is also a Magistrate's Court, which hears prescribed civil and criminal cases, a Juvenile Court and a Court of Summary Jurisdiction. The United Kingdom Privy Council is the final court of appeal.

9. Following a highly publicized corruption trial (see paras. 55 and 56) and in keeping with its campaign promises, the newly elected Government declared its commitment to "open governance" and its intention to table an integrity bill to regulate the conduct and accountability of the civil servants. In September 2003, the Chief Minister confirmed that such legislation would be passed in early 2004.[2]

10. As was reported in the previous years (A/AC.109/1999/1 and Corr.1, annex; A/AC.109/1999/9, para. 28; and A/AC.109/2003/5, para. 12, A/AC.109/2004/3, para. 16), the British Overseas Territories Act 2002 (see A/AC.109/2002/2/Add.1) granted the right of full British citizenship to all inhabitants of the Overseas Territories and formally abolished the term "colony" in favour of "Overseas Territory".

11. In April 2004, the Chief Minister launched a nine-member Constitutional Review Committee, which will serve for one year, tasking it with conducting a review of the existing Constitution and making recommendations for its change. The members of the Committee, which include a wide cross-section of representatives from areas such as tourism, construction, law, education, financial services, communications and business, were selected by the elected members of the Legislative Council. A Government statement announcing the creation of the Committee pointed out that this was "the first time in the Territory's history that the process of constitutional review was being carried out within the British Virgin Islands by locals alone" and not as a declaration of United Kingdom Government. Some of the key areas the Committee will focus on include examining the duties of the Attorney General and the way to ensure that the Government gets the best legal advice; addressing issues related to "belonger status"; finding ways to ensure the protection of the legitimate rights of the indigenous population; considering the inclusion of a human rights chapter in the Constitution; reviewing the powers of the Governor; and the functioning of the Executive Council and the checks and balances of good governance. In connection with the existing Constitutional review, the Government appealed to the population to familiarize themselves with the Constitution and to participate in the discussion of the proposed changes. In order to educate the public and obtain their input in the Constitutional review, the Committee conducted a number of meetings throughout the Territory. It also held a meeting

with the League of British Virgin Islanders residing in the neighbouring United States Virgin Islands.[3]

12. The last Constitutional Review in the Territory was conducted in 1993. The Report of the Constitutional Commissioners included 22 recommendations for action by the United Kingdom Government and 9 recommendations for action by the British Virgin Island's Government. According to press reports, only a small number of these recommendations had received some attention since their submission, thus in 1997 the categories of "belongers" were examined and subsequent changes were made in the Constitution in 2000.[4]

III. Budget

13. The 2005 Budget envisaged revenues of $217 million and recurrent expenditure of $188 million. It included the capital expenditure of $40 million. Approximately $25 million were expected to be funded from revenue and $15 million through loans. At the same time, $1 million was intended to go to the Emergency/Disaster Relief Fund. Presenting the Budget, the Finance Minister announced that the Government would contribute $2 million to the reserves as part of the promise to continue building the official reserves sufficient to cover at least three months operating expenditure, approximately $48 million.

14. The 2005 Budget projected a $10 million decrease in Government spending and envisaged a surplus of $20 million. The Territory's foreign debt stood at $50 million, while the domestic debt was estimated at $40 million.[5]

IV. Economy

A. General

15. The economy of the British Virgin Islands is based on tourism and offshore financial services, which account for 75 per cent of the Government's recurrent revenue.

16. According to the administering Power, the Territory's principal trading partners are the United States of America, Puerto Rico, countries members of the Caribbean Community (CARICOM) and the United Kingdom. Imports consisted mostly of food, machinery and fuel.

17. The Economist Intelligence Unit reported that the gross domestic product (GDP) of the British Virgin Islands amounts to $827 million in 2003 with real GDP growth of 3.2 per cent. According to the Minister of Finance, the estimated growth of the Territory's economy in 2004 was 2 to 2.5 per cent.[6] The positive economic outlook for the economy, notwithstanding its small size, geographic dispersion, and dependence on tourism and financial services, was also reported by the Caribbean Development Bank (CDB). The rise in real output was attributed to the heightened tourism activity supported by continued growth in the financial services sector. According to the CDB, in the public sector, containment of expenditures, particularly on capital items, offset revenue shortfalls and led to an improvement in the Government's overall fiscal position.[7]

18. During the period under review, a serious reform of the Territory's tax system was instituted. In November 2004, the Finance Minister announced that under the new international rules, agreed to by the United Kingdom, the Territory was no longer permitted to allow international business companies (IBCs) to operate in the Territory tax-free, while income tax was being imposed on local businesses. Effective 1 January 2005, all businesses in the Territory are exempt from income tax. At the same time, employers will pay 6 or 2 per cent payroll tax depending on the size of the business. Under the new regulation, employees no longer have to pay income tax based on the pay-as-you-earn (PAYE) system. Their contribution will be 8 per cent, with the first $7,500 of employee income's remaining tax free. The Payroll Tax Bill was passed in December 2004. The Government organized a public education campaign through a series of radio and television broadcasts, seminars and a telephone help line with a view to explain the payroll tax to the population.[8]

19. In order to promote a stronger relationship with the Asian business community with a view to stimulating mutual growth based on open trade and increased commerce, in May 2004, the Chief Minister, the Minister of Finance and a delegation of over 30 members of the private sector, representing the local financial services industry, met with business leaders from two provinces of China, namely Hong Kong and Taiwan, Singapore and others from across the Asia-Pacific region. Over 400 high-ranking business leaders from across the Asia-Pacific region attended the presentations of the British Virgin Islands delegation. Additionally, the Chief Executive Officer of the Financial Services Commission and several members of the private sector delegation of the Territory made presentations. Separate meetings were held with both Government and private sector representatives from the British Virgin Islands and their counterparts from the region.[9]

B. Agriculture and fisheries

20. Agriculture contributes 1.5 per cent of GDP and engages 1.9 per cent of the population in paid employment. There are serious obstacles to developing the agricultural sector, such as a shortage of labour, water and marketing facilities. The fishing industry contributes 1.3 per cent to the Territory's GDP.

21. As reported in the previous Working Paper (A/AC.109/2004/3, para. 26), the Government took steps to strengthen the agricultural sector, which included providing training to farmers and assisting them in marketing their produce. According to press reports, the Territory now imports large amounts of organic food and organically grown produce. At the same time, locally grown fruit and vegetables have become increasingly popular with the public, as well as with local restaurateurs, who support the local farmers.[10] In order to promote farming, the Department of Agriculture organized, in March 2004, agricultural exhibitions on the islands of Anegada and Virgin Gorda, as well as a Food Fair and Market Day, as part of the Farmers Week.[11]

22. According to the Food and Agricultural Organization of the United Nations (FAO) Fisheries Report issued in 2004, the two main types of fisheries in the Territory are small-scale (commercial) and recreational fisheries. There is also the offshore longline pelagic fishery with only one longline vessel in operation. The commercial fishers comprise about 300 boats, with 50 per cent of the fishers owning their fishing gear and the remainder acting as helpers or employees of the gear

owners. The species of fish landed include blue tang, doctor fish, parrotfish, grunts, triggerfish, snappers and groupers. Most fishers market their own catch at various places within the Territory, with an appreciable number of fishers selling their catch directly to the hotels and restaurants and a small number selling their fish to the British Virgin Islands Fishing Company. The Report also states that recreational fishers who operate within the Territory's waters are based outside the Territory and are primarily visitors who fish for pleasure, with about 80 per cent of licences issued to foreign boats.[12]

23. In order to further develop the agriculture and fishery industry, the Government of the British Virgin Islands signed, in June 2004, a Memorandum of Understanding with the State of Maryland, United States. The two parties intend to develop cooperation in agriculture and fishery. The joint projects would include trade and training activities, development of sheep breeding and the expansion of the fishery industry, in particular fish, lobster and shrimp farming.[13]

C. Tourism

24. A rich vegetation, unspoiled beaches, yachting marinas and fine coral reefs make the islands a natural tourist destination, and tourism continues to be the most important economic sector for the Territory. Unlike the international financial services, tourism is an important source of employment and revenue, and contributes to a host of other sectors, such as the construction and retail sales sectors.

25. According to the Economist Intelligence Unit (EIU), the tourist industry of the Territory is geared towards the upper end of the market and is based mainly on luxury accommodations and yacht charters, with yachting visitors outnumbering hotel guests in most years. Air arrivals reached 194,000 in 2003 and stop-over arrivals by boats accounted for a further 256,000 visitors. The number of cruise-ship passengers in the same year rose to 304,000. The Economist Intelligence Unit reports that there is a fear that the influx of cruise-ship tourists into the Territory might affect the "up-market" image of the islands.[14]

26. During the period under review, the Territory's Government continued efforts to develop the existing and new markets and expand the tourist industry as a top-class destination. According to the Tourist Board, in addition to the North American and European markets, the Government is seeking to attract the ever-growing affluent African-American and Latin population and intends to target new markets in Asia. Plans are also in place to expand the French Caribbean markets, and the Tourist Board is focusing on the large number of French tourists who visit the French islands.

27. In order to further rise the level of customer service, in October 2004, the Tourist Board introduced the new hotel industry standards, which are designed to ensure high quality of service delivery. The industry-agreed standards programme was preceded by a series of consultations with focus groups earlier in the year. The programme includes the development of the Standards of Performance Manuals for hotels and restaurants, as well as a programme of quality inspections. The Government's investment in the programme will total $3 million over the next three years.[15]

D. Finance

28. The provision of international financial services is one of the two pillars (along with tourism) of the British Virgin Islands economy. Fees from these services alone bring in more than half of the Government's revenue. The British Virgin Islands was one of the first Territories to adopt legislation (in the mid-1980s) allowing registration of international business companies and continues to claim about 45 per cent of the world's market. The British Virgin Islands does not tax the assets of the companies, ensures their privacy and has a well-educated population, which enhances the quality of the services and regulation provided. At present, there are about 600,000 international business companies (IBCs) registered in the Territory.[16]

29. During the period under review, the Government continued to improve the legislation regulating the financial industry. According to the Chief Minister, the new Business Companies Act (2004), which replaces the existing Companies Act and the International Business Companies (IBC) Act, is designed to appeal to international clients, while providing a suitable legal framework for firms undertaking domestic business. The new Act took effect on 1 January 2005 and will completely replace current companies legislation by 1 January 2006. When fully enacted, the Business Companies Act will extend the zero tax regime currently enjoyed by IBCs to local companies and will bring the Territory into full compliance with the European Union (EU) Savings Tax Directive and EU Code of Conduct on Business Taxation, as required by the United Kingdom of all its Territories.[17]

30. In July 2004, the British Virgin Islands announced that the deadline by which bearer shares issued by the international business companies must be "immobilised" had been extended from the end of 2004 to the end of 2010. Under the amendment to the International Business Companies Act (2003), the companies were allowed continued use of bearer shares, but were required to register them with an authorized and recognized custodian. These custodians, which in the British Virgin Islands will be banks, trust companies licensed in the Territory and institutions based in the jurisdiction, will hold information on the shares' beneficial ownership. The International Business Companies Act (2004) supersedes the earlier legislation provided for a seven-year transition period. According to the Financial Services Commission, the measures enable the Territory to comply with all international standards and the anti-money-laundering recommendations of the Financial Action Task Force.[18]

31. In July 2004, the Chief Minister responded to a statement made by the Under Secretary of State of the Foreign and Commonwealth Office regarding the effect of the European Union (EU) Savings Directive on the British Virgin Islands. While the Under Secretary stated that there was no evidence that the Territory's businesses would relocate as a result of the application of the EU Savings Directive, the Chief Minister indicated that, according to the Maxwell Stamp Report, which had specifically looked at the potential economic consequences for Territory of the implementation of the EU Savings Directive, "The savings directive will have an initial and continuing negative impact on the BVI's financial services sector from an initial loss of flight business and a future loss of new business." The report further states that Territory's economy could decline by as much as between 10 per cent and 20 per cent.[19]

E. Transport and communications

32. According to the Economist Intelligence Unit, the British Virgin Islands have 210 kilometres of surfaced roads. Direct shipping services operate from the United Kingdom, the United States and the Netherlands; a deepwater harbour exists in Road Town. A regular ferry service links Tortola with some of the other islands and with St. Thomas of the United States Virgin Islands. There are three international airports in the British Virgin Islands. Fifteen airlines fly to the Territory.

33. As was reported in last year's Working Paper, a new terminal in the Beef Island Airport (renamed T. B. Lettsome International Airport) was opened in 2002. After long delays and a corruption scandal (A/AC.109/2004/3, paras. 55 and 56), the National Democratic Party Government signed a contract to expand the runway.

34. In May 2004, the runway extension and control tower facility of the T. B. Lettsome International Airport were officially opened. The new 4,600 feet long runway is able to accommodate the larger ATR-72 aircraft used since 2004 by the American Eagle regional airline network. According to the Minister of Communications and Works, the extended runway and the taller control tower will greatly enhance the safety of aircraft operations at the Territory's airport. The overall expansion of the airport is the largest project ever undertaken in the history of the Territory and the facility is in the Chief Minister's words, "an indication of what the British Virgin Islands can accomplish as a Territory of people who aspire to be on the cutting edge".[20]

35. The British company Cable and Wireless provides basic telephone services in the British Virgin Islands. The current contract with the company expires in 2007. Following the Government's decision not to renew its exclusive licence and to negotiate a competitive market, the company is working with the Government in order to find a suitable model for the liberalization of the local telecommunications industry. According to press reports, Cable and Wireless is upgrading its network with the most technologically advanced systems.

36. During the period under review, the Government continued to take steps towards the liberalization of the telecommunication industry. In late 2004, the telecommunications regulatory adviser hired by the Government visited the Territory and held a series of meetings with various stakeholders in the sector. The adviser will also assist in developing a policy that would set up expectations and requirements for telecommunications operators intending to do business in the British Virgin Islands.[21]

V. Social conditions

A. General

37. Public assistance is provided for those who need it through the Social Security Board, a statutory body that falls under the Ministry of Finance. It provides for sickness and maternity benefits, as well as pensions. According to the administering Power, the Social Development Department has a number of programmes, which include Elderly and Disability Services, Family and Children Services, Rainbow Children's Home, Social and Legal Aid, and Community Development. Considerable attention is paid to the youth programmes.

38. As reported in last year's Working Paper (A/AC.109/2004/3, para. 43), immigration accounts for almost half of the population growth in the Territory. The previous census indicated that 53 per cent of managers, 65 per cent of professionals and 52 per cent of assistant professionals were immigrants. In total, immigrants constituted 61 per cent of the working labour force.

39. During the period under review, the Government continued to address the issue of immigration. In December 2004, the Chief Minister announced the new immigration policy related to residence and "belonger" (local citizenship) status. Under the new policy, persons who have resided in the Territory continuously for more than 20 years will be recommended to be granted residence status. However, only 25 persons will be granted the status per year. The existing backlog of approximately 375 applicants will be cleared during 2005. The Chief Minister also announced that the Government remains committed to review the entire immigration legislation to ensure, among other things, belonger status for children born outside the Territory to a British Virgin Islander parent whose entitlement to belongship is by descent.[22]

B. Labour

40. The labour force of around 12,200 is engaged primarily in tourism (25 per cent), government employment (21 per cent) and construction (10 per cent). According to the Economist Intelligence Unit, unemployment is negligible.[23]

C. Education

41. Education is free and compulsory in the Territory between the ages of 5 and 11 years; secondary education (from 12 to 16 years) is also free. There are 18 public and 11 private primary schools in the Territory, on Tortola, Anegada, Virgin Gorda and Jost Van Dyke. There are three high schools (one private and two public) and a community college at Road Town. Secondary education is available to the General Certificate of Education "A" Level. Higher education is provided by the University of the West Indies. The H. Lavity Stoutt Community College offers associate degree courses and technical education.

42. In the State of the Territory address, the Chief Minister reiterated the commitment of the Government to provide the young generation with the best education. In order to provide world-class education, the Government started the

National Curriculum project. The project brings together local and overseas education professionals and experts, who will develop a comprehensive curriculum to be introduced in the Territory's schools. The Chief Minister also announced the plans for improving the existing school buildings and for the construction of a new high school.[24]

D. Public health

43. The territorial Government is the major provider and financier of health services. The Territory has one public hospital (Peebles Hospital), one health centre at Road Town and a network of eight district clinics, as well as two satellite clinics at Brewers Bay and Sea Cow Bay. Private health care is provided by one private hospital, two private dental surgeries, two private medical complexes and nine private physicians. According to the administering Power, health services are almost entirely financed (95 per cent) from the Consolidated Fund. User fees generally constitute 8 per cent of the operating costs of services. In 2002, total recurrent expenditure for health was $28.7 million. Expenditure for public health services overseas was $700 thousand in 2003.

44. In 2004, the long awaited project to expand and modernize the Peebles Hospital got moving. In the State of the Territory address, the Chief Minister reported that the Hospital Expansion Project was into the second phase of the design process. The Project included a casualty unit, a diagnostic laboratory, a new pharmacy and a dialysis unit. At the beginning of 2005, the designs were further revised with the view to reducing the construction and operation costs, while increasing the function. Under the improved design, the Hospital will cover some 135,000 square feet and will include 128 beds. The new plan also includes two vacant floors for later expansion. At the same time, the overall construction cost was $19.5 million less than the original design.[25]

45. During the period under review, the Government continued efforts to combat HIV/AIDS. Growing concern over high rates of HIV/AIDS in the region has led doctors and government officials of the Territory to increase their efforts to treat existing patients and fight the spread of the disease. The National AIDS Programme was started in 2003. According to the Coordinator of the Programme, between 1985 and June 2004, 42 people have been diagnosed with AIDS in the Territory and 24 of them have died. However, a recent Caribbean Economic Council study in the Territory indicated that as many as 300 people could be infected. In this connection, the Government established an education programme to seriously promote healthy sexual behaviour. An important part of the Programme is to encourage the people to be tested for HIV/AIDS. The National AIDS Programme Coordinator also established the HIV/AIDS sensitization programmes for private and public sector health care providers (nurses, doctors, dentists, physical therapists, lab technicians and radiology).[26]

E. Crime

46. The Royal Virgin Islands Police Force maintains three stations on Tortola and one each on Virgin Gorda, Anegada and Jost Van Dyke.

47. According to the Police Commissioner, in 2004, the British Virgin Islands saw an 8 per cent reduction in major crime. Nevertheless, the overall number of criminal acts increased by 7 per cent and a number of arrests by 10 per cent.

48. According to press reports, during 2004, the increased level of crime in the Territory became a matter of national concern and, at the beginning of 2005, was brought to the attention of the Legislative Council. According to the Chief Minister, the main causes of crime are drug abuse, domestic violence, unemployment and illegal immigration. The discussion also brought to light the inadequacy of the law enforcement and criminal justice system. The Chief Minister intends to develop a new strategy to combat crime.[27]

49. The upsurge of crime in the Territory was one of the issues discussed during the visit of the United Kingdom Foreign and Commonwealth Minister to the British Virgin Islands in September 2004. The Minister was briefed by the police authorities on the strategic challenges that the police had been confronted with. At the same time, the Minister acknowledged the public's concerns with the recent murders in the Territory and disclosed that there was a strong plan in place and that a lot of action was being taken.

50. The Minister also stated that the United Kingdom Foreign Office had recently funded the purchase of a boat to help patrol British Virgin Islands waters in order to tackle illegal immigration.[28]

VI. Environment

51. In August 2004, the Government of the British Virgin Islands and the Government of the United States of America signed a Memorandum of Understanding (MOU) related to the oil spill near the Territory's shores. Five months earlier, more than 200 gallons of oil had spilled into the sea at Pockwood Pond, Tortola, during a ship-to-shore hose operation from an oil tanker to a gas station. More than 5,250 feet of coastline were affected and dead marine species were found during clean-up efforts. Under the bilateral agreement, the United States will assist with problems arising from the discharge of oil or other hazardous and noxious substances into waters of the British Virgin Islands.[29]

VII. Relations with international organizations and entities

A. United Nations system

52. The Territory enjoys associate membership in the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Economic Commission for Latin America and the Caribbean (ECLAC). The Territory also receives some funds from the United Nations Development Programme (UNDP) in implementing its country cooperation framework.

B. Regional organizations and entities

53. The Territory is an associate member of CARICOM, whose goal is to promote closer political and economic integration among Caribbean States, and the Organization of Eastern Caribbean States (OECS). Because of its relatively high level of economic development, the Territory is being pressured to become a full member and to open its labour market to OECS workers. It is a borrowing member of the Caribbean Development Bank. It is also a signatory to the Lomé Convention, which provides for some development assistance.

VIII. Future status of the Territory

A. Position of the territorial Government

54. As reported in paragraph 11 above, a nine-member Constitutional Review Committee was established by the Chief Minister in April 2004.

55. The constitutional issues were also discussed during the visit to the Territory of the United Kingdom Foreign and Commonwealth Minister at the beginning of September and at the sixth Overseas Territories Consultative Council (OTCC) meeting in London at the end of September 2004.

56. During the visit of the Foreign Minister to the Territory, he discussed with the Chief Minister the long-term constitutional settlement for the British Virgin Islands. The Foreign Minister made clear his view that the United Kingdom valued "the Overseas Territories as a whole" and that they were very pleased that the Territories remain associated with the United Kingdom. However, if at any stage any of "the Overseas Territories" wish to begin moving towards independence by consulting properly and demonstrating that the majority of their population were in favour of that, the United Kingdom would not stand the in way of their independence.[30]

57. The sixth Overseas Territories Consultative Council (OTCC) meeting in London was described by the Chief Minister as highly successful. According to the Chief Minister, constitutional advancement in the Territories was discussed in detail. He noted that the British Virgin Islands Government preferred to have a constitution that suited the British Virgin Islands' level of development. He stated: "We are not interested in the constitution of one country or another. It is our view that, once the concerns of Her Majesty's Government as they relate to continued liability and good governance are addressed, the elected representative should be given full authority to manage the basic institutions of the territory without interference. ... In that way, the representative would be better able to lead and work for the people who elected him."

58. The Chief Minister also reported that discussions held with the Department for International Development focused on climate change, HIV/AIDS and child protection.

59. Another issue discussed at the OTCC meeting related to the restoration activities in the Cayman Islands following the passage of Hurricane Ivan. According to the Chief Minister, the United Kingdom pledged support for the ongoing restoration efforts and the British Virgin Islands and Bermuda agreed to assist the

institutions in the Cayman Islands affected by the hurricane. Thus, the Territory had already contributed US$ 10,000 and had sent five police officers to help maintain law and order.[31]

B. Position of the administering Power

60. In his statement at the 3rd meeting of the Fourth Committee, on 5 October 2004, at the fifty-ninth session of the General Assembly (see A/C.4/59/SR.3), the representative of the United Kingdom said that the United Kingdom again welcomed the opportunity, as administering Power for ten of the sixteen Territories on the United Nations list of Non-Self-Governing Territories, to update the Committee on developments since it had last met.

61. He stated that the partnership between the United Kingdom and its Overseas Territories continued to develop. The sixth annual meeting of the Overseas Territories Consultative Council had been held in London in September 2004. The Council, which had been chaired by Bill Rammell MP, Minister for the Overseas Territories, was the forum for dialogue between democratically elected Chief Ministers, their equivalents from the Territories and United Kingdom Government Ministers. The meeting in 2004 again gave an opportunity for discussion on the relationship between the United Kingdom and the Territories, on constitutional modernization issues, on sustainable development, including good governance and environmental matters, and on other issues relating to the United Kingdom's international obligations.

62. The representative stated that Mr. Rammell had made useful visits to two of the Territories, the Falkland Islands (Malvinas) and the British Virgin Islands, over the past year. These had enabled him to meet a range of people in the two territories and to get a better, first-hand, knowledge of them. He had also been able to have discussions on a wide range of issues with elected representatives in their own Territories.

63. The United Kingdom, he pointed out, welcomed the progress that was being made in the constitutional review process. Useful and productive discussions had been held over the past year by United Kingdom officials with representatives of Montserrat, St. Helena and the Turks and Caicos Islands. In St. Helena, a draft Constitution had been prepared and wider consultation on it was under way. Constitutional reform proposals for Gibraltar had been tabled in December 2003. Dates had not yet been set for formal talks.

64. Conscious of the limited resources in a number of the Territories, the United Kingdom Government continued to support projects in various fields to raise local capacity and to promote sustainable development and good governance. Projects ranged from economic diversification to the reform of legislation governing child and family welfare and to a study on the alternatives to custodial sentencing.

65. He recalled that in 2003, the representative of the United Kingdom had said that additional funds had been expected to be provided by the Foreign and Commonwealth Office and the Department for International Development to support environment work in the Territories and the implementation of the Environment Charters for the Overseas Territories, signed in 2001. This joint Overseas Territories Environment Programme was funding 23 new projects in 2004-

2005, of which three were multi-Territory initiatives. These included habitat restoration, surveys of living natural resources, and capacity-building for both government and civil society institutions.

66. Regrettably, he said, the Caribbean had again suffered badly from hurricanes and, in the context of the Territories, he mentioned the devastation caused by Hurricane Ivan to the Cayman Islands, despite good local contingency planning. The United Kingdom had been able to provide some immediate help, and other Territories and neighbouring States had also helped. The United Kingdom and the Cayman Islands were very grateful to all for their assistance. Although much remained to be done, encouraging steps were being taken to enable the Territory to return to normality. The Turks and Caicos Islands also had suffered quite extensive damage to part of the Territory a few weeks earlier.

67. The United Kingdom representative mentioned that, in response to requests from some Overseas Territories for help in accessing European Commission economic, trade and development assistance, an official with responsibility for liaising with the Commission had been appointed last year to the Foreign and Commonwealth Office's Overseas Territories Department. He continued to work with several of the Territories to identify and pursue Commission development aid as provided for under the European Union-Overseas Countries and Territories (EU-OCT) Overseas Association Decision of November 2001.

68. The representative said that the United Kingdom continued its informal cooperation with the Special Committee of 24 on decolonization. The most recent involvement had been when a United Kingdom representative had attended and presented a paper on constitutional developments in the United Kingdom Territories at the Special Committee of 24 seminar in Papua New Guinea in May 2004. He stated that perhaps the most positive recent development had been the proposal for a visit to Bermuda with a view to considering movement towards that Territory's delisting. He concluded by saying that the Secretariat was in touch directly with Bermuda on preparing for this.

C. Consideration by the General Assembly

69. On 10 December 2004, the General Assembly adopted resolutions 59/134 A and B without a vote; section IV of resolution 59/134 B concerns the British Virgin Islands.

Notes

[1] The information contained in the present working paper has been derived from published material and from material provided by the administering Power under Article 73 e of the Charter of the United Nations.

[2] *The Island Sun*, 26 September 2003.

[3] *The Island Sun*, 1 May, 18 September, 2 December 2004, 29 January 2005; BBC Monitoring Americas, 19 May 2004.

[4] *The Island Sun*, 18 September 2004.

[5] The BVI Beacon, 18 February 2005, BBC Monitoring Americas, 3 December 2004.

[6] Economist Intelligence Unit, www.eiu.com; *The Island Sun*, December 2004.

[7] *The Island Sun*, 21 August 2004.

[8] *The Island Sun*, November 2004, January 2005.

[9] *The Island Sun*, May 2004.

[10] *The Island Sun*, 29 May, 2004.

[11] *The Island Sun*, 13 March, 3 April 2004.

[12] FAO Fisheries Report No. 729, Food and Agriculture Organization of the United Nations, Subregional Office for the Caribbean, Rome, 2004.

[13] Caribbean Net News, 15 June 2004.

[14] Economist Intelligence Unit, www.eiu.com.

[15] Caribbean Net News, 2 November 2004, *The Island Sun*, 9 January, 13 March, 3 April, 17 July, 16 October 2004.

[16] Economist Intelligence Unit, www.eiu.com.

[17] *The Island Sun*, 23 October 2004.

[18] International Money Marketing, 14 July 2004.

[19] BBC Monitoring Americas, 21 July 2004, *The Island Sun*, 24 July 2004.

[20] *The Island Sun*, 29 May 2004.

[21] *The Island Sun*, 9 October, 6 November 2004.

[22] *The Island Sun*, 11 December 2004.

[23] Economist Intelligence Unit, www.eiu.com.

[24] Development Planning unit of the British Virgin Islands, State of the Territory Address, 1 July 2004, http://dpu.gov.vg.

[25] *The Island Sun*, 10 July 2004, 15 January 2005.

[26] *The Island Sun*, 6 July, 4, 29 September, 26 November 2004.

[27] *The Island Sun*, 12 July, 9 October, 25 November 2004, 5, 19 February 2005.

[28] *The Island Sun*, 11 September 2004.

[29] *The Island Sun*, 21 August 2004.

[30] *The Island Sun*, 11 September 2004.

[31] Caribbean Media Corporation news agency, 24 September 2004.